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economic point of view. Many changes are taking place in the world to-day, and in nothing else is the change likely to be greater than in the institution of marriage. Marriage, asserts Otto Rothfield, must transform itself and find a new meaning in accordance with the new conditions of life and yet retain its consistency with the fixed nature of mankind.

We are given, in the course of this book, a short and clear account of marriage in the leading systems of the world at the beginning of the twentieth century, and how they are applied by matrimonial law.

*The Garden of Thorns* is a work to be studied and discussed. It attempts solution of a great problem which, at some time or another, is likely to confront most of us. It is inspired by the highest ideals, and at the same time the actual facts and difficulties are never forgotten.



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## THE GARDEN OF THORNS





# THE GARDEN OF THORNS

BEING AN ACCOUNT OF MARRIAGE, LOVE AND  
DIVORCE AS THEY ARE IN THE TWENTIETH CENTURY  
IN THE PRINCIPAL COUNTRIES OF THE WORLD

by  
OTTO ROTHFIELD

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# CONTENTS

CHAPTER	PAGE
I. MARRIAGE IDEALS . . . . .	7
II. MARRIAGE AND DESIRE . . . . .	17
III. ROMANTIC LOVE . . . . .	26
IV. LOVE AND LIFE . . . . .	35
V. THE MEANING OF MARRIAGE . . . . .	45
VI. LOVE OR PRUDENCE AS A MOTIVE FOR MARRIAGE . . . . .	58
VII. PROSTITUTION AND THE MARRIAGE SYSTEM . . . . .	77
VIII. CULTURAL VALUES OF PROSTITUTION AND GALLANTRY . . . . .	97
IX. BUDDHIST MARRIAGE . . . . .	115
X. HINDU MARRIAGES . . . . .	123
XI. MUSSULMAN MARRIAGE . . . . .	145
XII. CHRISTIAN MARRIAGE . . . . .	166
XIII. CHRISTIAN MARRIAGE AND THE CHURCHES . . . . .	187
XIV. MARRIAGE IN MODERN EUROPE . . . . .	213
XV. MARRIED LIFE IN ENGLAND . . . . .	231
XVI. THE ENGLISH LAW OF MARRIAGE . . . . .	241
XVII. GENERAL CONSIDERATIONS . . . . .	255
XVIII. PROSPECTS AND RETROSPECTS . . . . .	273



# THE GARDEN OF THORNS

## CHAPTER I

### MARRIAGE IDEALS

THE old world of Europe stands now on the edge of unmeasured change, and no one can foretell what in the future may come to pass. All that we know at present is that social conceptions which for some four hundred and fifty years have underlain the altering forms of Western European life and which survived and were strengthened by the French Revolution are at this moment dead or dying. Whatever it be that comes forth, it will hardly be anything like that world of individual households, each living for itself, supported mainly on commerce and credit, and full-fed on the exploitation of subject peoples and classes, which for the last century has been the type and model of what we knew as Western civilisation.

In nothing else is the change likely to be greater than in the institutions of marriage. Already before the War things had taken place which had profoundly modified the significance of matrimony and the relations of husbands and wives, not only in Europe but also in those great regions of Asia which had suddenly come under European influence. A scepticism, and side by side with it a new idealism, had grown up which threatened most of the moral precepts by which

marriage had formerly been supported. After the War change became much more rapid in practice, though not necessarily in legislation. The spirit of enquiry and the new idealism became more diffused and more thorough. A general freedom of discussion was tolerated which would have shocked professed libertines in the past. Great future changes in form and spirit must be expected. We may have a preference for one type or other of social life and marriage in the abstract ; yet, personal inclinations apart, it must in reason be admitted that marriage like other institutions is bound to vary with the social environment. If therefore it is true that the collapse of the late social system cannot much longer be averted in an age dominated materially by the power-engine and spiritually by the revolt against capitalism, then clearly marriage also must transform itself and find new meaning in accordance with the new conditions of life.

One thing more, however, must be said at once, whatever changes may experimentally be tried, it is impossible that under any political or economic conditions whatever the unions of men and women can for any considerable period be regulated in a way inconsistent with the fixed nature of mankind. The sexual act and its consequences in parenthood and companionship are so permanently based on natural needs that if these are neglected by custom or legislation nothing except evil can ensue. Any efforts therefore to adjust marriage better as an instrument of well-being to changed economic and social conditions can succeed only if they do not overlook natural needs and capacities.

At such a time it seems desirable that a short and clear account of marriage as it stood in the leading systems of the world at the beginning of the twentieth century

should be at hand for the use of the average man and woman. It is they who in the last resort will have to pronounce on the suitability or otherwise of the changes which environment and propaganda are forcing on the peoples. They ought to know before they act.

It might at first sight appear as if the matter were simple enough. Most persons seem to assume that they know what marriage means. Yet it is by no means so simple as it seems. It is difficult enough to define what marriage is, and still more so what it ought to be. Indeed the extreme views which are commonly heard from those who would keep everything as it was, and those who would dispense altogether with restrictions and make love free and families a charge on the State, are equally vitiated by unproven assumptions. The chief purpose of this book is to provide facts impartially for any who care to read. The leading living systems of matrimonial law and ethics as they are actually used and understood have been described, and, as far as is necessary, their history has been followed. The history of the Christian systems has been reviewed with particular fullness. Pains have been taken to trace and describe the essential purposes of a loving union, and the conditions of their fulfilment; and the analysis of love in its principal aspects will, it is hoped, be found sufficiently frank and exact. It has also been necessary to analyse at some length the being of prostitution, both as a complementary part of a rigid marriage system, and as a substitute for ideals of love which are not ordinarily attained in marriage.

Such a review of facts cannot of course be conducted without pointing to some conclusions or inspiring feelings of one kind or another.

The first conclusion which must be drawn from the

facts is certainly this: that in the course of history nearly every possible combination has been tried in order to discover a happy and reputable form of union; and that so far none perhaps has been successful. The word "marriage" has covered almost every possible variety of regulation conceivable by the human mind at any stage. It is quite certain that there are no two peoples in the world for whom marriage means exactly the same thing, and no one people to whom it has ever meant the same thing for any considerable period without modification. It has been an institution of infinite variety. The only element of unity and permanence indeed which seems to exist in all those varied relations comes in the end to be that of public approval. Whatever else it may be, whatever forms it may take, one thing at least and one thing only clings to marriage, as opposed to all other forms of sexual relationship, and that is the approval of the social group to which the couple belongs. This it is—the approval of society—which in the last analysis constitutes marriage.

This being so, and it being plain to perception that every ordinarily healthy person, if not impeded, desires to found a family, to live happily in the company of a mate, and to keep the respect of his social group and live within its protecting circle, one has to ask how far each of the existing systems succeeds in ensuring these purposes in the surroundings in which it is applied. It is clear that there can in practice be no single rule of marriage, and no immutable and insuperable type. Every form of regulation must necessarily be related to the environment where it exists. It can be judged only by the test whether it helps men in that environment to attain as near as possible to the essential purposes which they pursue.



That any system of marriage so far tried has come within reasonable distance of any ultimate ideal or has even been able to bring the practical objects of marriage easily within reach of those who are governed by it can hardly be maintained. It cannot, however, be overlooked that mankind is in no respect and in no single matter adapted to anything like perfect happiness. Unhappiness is perhaps inherent in human life and character. We are too imperfectly adjusted to our surroundings; there remain too many essential disharmonies in our nature and development. That marriage does not always produce happiness in its own sphere is therefore not sufficient ground for complaint. But one is justified in complaining when one discovers in it regulations so inconsistent with each other or so inappropriate to and incompatible with human nature as to make failure almost certain. In all countries unfortunately it would often seem as if rules had been devised for no other purpose than to make married life unbearable.

On the other hand certain forms of marriage have been noticeably less unsuccessful than others in their actual surroundings and in relation to the people by whom they are practised. It is regrettable that the forms which marriage has taken in the countries of Western Europe during the last forty or fifty years have not been among those which have attained the most success. On the contrary, there is a general feeling in those countries that they have proved intolerable and nowhere more strongly than in England, where the adjustment of law and public opinion to changing ideas and material surroundings has been particularly slow and incomplete.

These are basic facts which stand before any serious enquiry, and they lead at once to consideration of the

part which—for the sake of happiness or ideal attainment—should be played by love in marriage. That marriage should necessarily be built upon love or indeed on any temperamental agreement of the parties must not, however, be too hastily assumed. Like any other of the assumptions commonly made, it must be tested before it is accepted. In the greater part of the world there is not even a pretence that marriages begin in this way. There are peoples who do not respond to all those complicated and romantic emotions which in Europe pass with various shades of meaning under the names of Love, Amour, Amor, or Liebe. Even where love in this sense is understood, it is notoriously oftener the case that marriage is built upon other interests which, if not more powerful, are at any rate more permanent—wealth, for instance, or position, the contiguity of an estate, or the conveniences of a business deal. Even when the motives are not so frankly utilitarian, it is usually enough the case that liking is put for love, or at a lower stage of mentality, which, however, is found in every social class, the need for a housekeeper on the one side, and for a house to keep on the other. Such motives are by no means necessarily to be despised. They may often be worthy enough. It cannot be denied that they often lead to quite considerable contentment.

On a full review, however, of facts and arguments the conclusion come to in this book is that love is a blessing so great to the individual and of such supreme value to the race both through the stimulus it gives to all creative work, and in particular to the fine arts, and also by its effects on natural selection and the breeding of vigorous and healthy children, that any marriage system which is founded on motives other than love, such as prudential calculation by the parties or selection by

parents, must necessarily to that extent fail in attaining the ends to be expected from an idealised method of sexual union. But before love can become the main factor in marriage, many changes are needed. The greatest of these perhaps is a spiritual change. For centuries the European and particularly the inhabitant of Northern and Western Europe has been taught to regard sex as something shameful and sexual love as a deplorable appetite. Healthy desire has been stigmatised as contemptible animality. It is this absurd and indeed criminal perversity—this lamentable twist in the soul—which is responsible for at least two-thirds of the married unhappiness that exists in those countries.

Such a spiritual change will not, however, be enough unless it can be accompanied by changes in material circumstances. Of these, more tolerable economic conditions are undoubtedly the most necessary. It must be made possible for a young man and a young girl to marry at an age when their whole natures call for it, without the danger of poverty and unceasing toil and weariness. The sacrifice of pure and early love is part of the tribute we have had to pay to capitalism in its present ill-regulated state. Capitalism has cornered the crop and in its place has put prostitution on the market on a scale of mass-production.

If love is to be brought to marriage, there is another material change by which it must be accompanied. Laws which still shackle and degrade the institution require urgent alteration. Obviously, if marriage is to be based upon love and an inspiration which may fairly be called religious, then legal compulsion should no longer force it to persist after the life-giving spirit and the value have departed. It may be necessary to qualify the principle in some particulars in order to preserve the

rights of children or to prevent the malevolence of evil men or women, but in general one cannot but conclude that divorce must be more largely freed from legal restriction if love is to be in truth the inmost core of marriage.

The legal aspect does not, however, exhaust the question. Marriage being taken as a natural relation in which the parties are happiest as they are closest to human nature, it follows that it should begin with a strong physical attraction and should be preserved by passionate fulfilment. But while passion is indispensable for happiness in any full and valued sense, it is by itself far from enough. Even for its momentary enjoyment at the highest degree it needs to be transfused with other qualities of mind and heart. Reason must play its part in love and with it those tender feelings which spring from a kindly character. All the more are these faculties required to achieve that permanence and that stability which are the attributes of a real marriage, of a union in its most sacred form. In order to rise to the heights that marriage truly requires, men and women, in accordance with the characters which God has given to each sex, must be willing to surrender their individualities to something which is greater than either. That which is greater is their joint being as a unit, one further generation in the descent and progress of the family. While therefore the sensual side of marriage should not be neglected or disparaged but on the contrary fortified and embellished, yet on the other hand enjoyment should be accompanied by a sense of duty and self-sacrifice, of devotion and steadfastness in an ideal of spiritual unity. It should be the fruit upon the tree of a well-ordered and unselfish common life.

Hence in regard to the dissolution of unhappy

marriages the general argument pursued in the following chapters is that, though the legal restrictions on divorce should be as few as possible, yet the pressure of education and of social observance may rightly be exerted to discipline married couples in those virtues of forbearance, self-sacrifice, and trust on which mutual respect and happiness must depend no less than on mutual enjoyment. In other words, while formal or artificial restrictions upon freedom should probably be removed as far as possible, yet in this as in other matters true freedom can exist only within the limitations imposed upon action by the laws of man's own highest self. The modern cry for negative liberty from restriction, the result of unnatural and excessive individualism, is as pernicious as were the former excesses of obscurantism. Both must be transcended by a principle which combines external liberty with inner discipline and joyous fulfilment with self-sacrifice.

This book is therefore designed to be a call to men and women to follow nature with a whole-hearted cheerful acceptance of natural relations, a call to exult in love and the pleasures of love and to seek and find them in a well-ordered married life. In such a union each should be the help-mate of the other and both in their separate and appointed parts and places combine to form that greater unity of which children, parents, relatives, friends, and ultimately in a sense the whole brotherhood of humanity are in varying degrees also members. For, in the highest sense marriage is indeed a sacrament, and husband and wife are joined by God. But it is a joyous sacrament, and the spirit of God speaks in the ecstasies of passion no less than in the tender devotion and the faithful and true companionship of loving hearts. The woman who nurses a sick husband,

the man who watches over a maimed and suffering wife,  
the pair who go through tribulation and misery hand in  
hand without letting go for even a moment, with love  
in their hearts and encouragement in their eyes, are  
divine; but so are they also divine when they give  
themselves to each other with ever fresh rapture, ever  
renewed enjoyment.

## CHAPTER II

### MARRIAGE AND DESIRE

**T**HAT sexual union between man and woman is of the very essence of marriage may be presumed to be evident. And it is obvious that union implies desire or some pretence of it. It implies desire, at any rate on the husband's part, even if it be merely temporary and barely physical, even if it is devoid of cordiality and affection. Unfortunately enough it does not always imply it on the part of the wife. It has indeed been conjectured and to some extent computed that in North-western Europe, more especially in England, and also in the northern American States there is a large number and probably a majority of women who pass through life without ever feeling a desire or satisfying it.

The presence of this abnormality, grievous though it is, has to be accepted as a fact. It is indeed pitiable to contemplate the depression of such women's lives, the warping of their minds and feelings, and the hardness and austerity which result. Even more saddening perhaps are the effects in physical ill-health, in nervous disaster, and in the production of children who continue ill-developed or neurotic. It is almost incomprehensible to the layman, but is proved by conclusive medical evidence that in modern Western Europe such frigidity often exists and continues not only when the wife is

otherwise not unhealthy, but also when she is quite fond of her husband—when she herself, not knowing what love means, would say she loves him.

In such a case the wife at the best tolerates her husband's embraces ; she never shares his transports. More often—when this distressing abnormality is present—she is disgusted and repelled ; and gradually loses the thin sentimental fondness with which she began, ending upon a general contempt and dislike for all men. In a country where such abnormal women are numerous, and possess influence, a long chain of cumulative evils follows, the alienation of men from their wives and homes, the cold and artificial upbringing of the young, the erection of false and unnatural codes of morals, the spread of hypocrisy, the setting up of bodies of spies like vigilance committees and the promulgation of unjust and often atrocious laws of a prohibitive order.

Present conditions in the United States, for instance, show what the effects on national life and thought can be. The further the process goes, and the more prevalent such frigidity and such distorted opinion among the respectable wives and mothers of the nation is, the more easily does the country slide down into the mud of hypocrisy on one side and of grossness on the other.

To attempt anything like a full analysis of the causes of such abnormality, its symptoms, its pathology, or its treatment is beyond the scope of this book. For one thing it is a subject that cannot be separated from medical considerations. But it is perhaps possible to indicate briefly some of the factors that combine to produce the result. Climate must certainly be one of them. In a climate such as that of the British Islands, for instance, with its penetrating damp cold, its frequent rain, and its



recurrent fogs and mists, the mere effort to live is sufficiently tiring. The effects of climate are aggravated by insufficient heating in the houses, while custom and a misunderstanding of the human body lead further to the toleration of draughts and the constant admission of raw air into rooms where human beings sit. People find themselves forced, therefore, to wear rough, heavy and necessarily far from clean woollen clothes and underclothing, which also dull the sensibility and diminish desires that to some extent depend upon luxury or refinement for their growth. Cooking is unskilled and heavy, and in recent years even the food which is to be cooked has been adulterated or chemically treated. Almost every one suffers in consequence from maladies of the digestion. These are all depressing circumstances. But worst of all is the lack of that sunlight which is necessary for robust human life, that sun whose rays gladden and whose heat invigorates and incites to pleasure.

In such a climate, with life so difficult, with, in addition, in modern times the utter exploitation of every faculty and every ounce of strength in the relentless competition for mere subsistence, there can be little energy left over for the development of the sexual passion. Even the male is singularly devoid of desire and can be abstinent for periods (extending in known cases even over years) which in the male of any other people would indicate permanent injury or incapacity. Even when marriage gives him liberty for indulgence, he is as a rule temperate to a degree both of quality and of quantity that often appears to foreigners a little ludicrous and which would certainly be more than a little disappointing to any healthy normal woman. An instance which shows how far this sexual coldness goes

presented to the Londoner any summer night by the spectacle of Hyde Park. There in the great open spaces, on the grass under the trees on a fine evening, lie many hundreds of couples of the poorer class, youths and girls, in the first flaming years of life ; they lie there in each other's arms, hour after hour, kissing and fondling with mutual endearment, and with some mutual attraction. But with few exceptions the intimacy proceeds no further. In the first flush of youth, they are still able to bear this close contact, these protracted caresses, hour after hour, and evening after evening, without overstepping the line and without coming to the natural fulfilment of desire. It is a spectacle unimaginable elsewhere, in any other climate, and provides the clearest evidence of the present character of the people.

Climate, however, is not the sole factor. In the United States also, with a climate that is generally drier and more healthful, and where the summer months are hot and sunny, there is sufficient testimony that in marriage women often display frigidity. There, however, the fact has to be read along with the other ascertained fact that the majority of these women have had marked sexual manifestations of other kinds. In the course of one investigation, for instance, over 80 per cent of the girl students in the colleges confessed the frequent usage of other methods to satisfy their desires. These facts seem to demonstrate that while climate must certainly be a governing factor, yet other influences of education or upbringing are no less responsible for producing the frigidity observed in marriage. Such an influence is that of puritanical thought and training, but the ignorance or unwisdom of the husband is often a contributory cause.

The effect of Puritanism not merely on conduct but even on the desires that are the motive forces of conduct, is an interesting instance of the power of thought upon the merely physical. There has in the last hundred years been a tendency to think of what is material or physical as being the indefeasible and immutable element in the world. Thought has often enough in recent times been regarded as a mere by-product of matter, as a mere effect of the activity of the glands, for instance. The scientists said so, and the public was apt to accept what they said. The real truth is that the reaction of thought upon matter is even stronger and more penetrating.

Thought expressed in discipline and education is what as a rule directly shapes and controls all subsequent conduct, while on the other hand thought without discipline accounts for many licences and excesses. Puritanism—taking the word in its widest sense, without unnecessarily limiting it to any single sect—is responsible for that shame in regard to sex and sexual feeling which is one of the least wholesome features of modern civilisation. It has regarded the body as something immodest, the flesh as an abomination, and beauty as a regrettable weakness. Even before Puritanism in its narrow Protestant sense had been born, the spirit had already made itself felt in Christianity. From the second to the fourth centuries especially its ugly and sombre shadow had darkened the ways of mankind. In those ages the main business of saints and their followers was to eradicate a natural appetite, and transpose themselves into a state which was very decidedly abnormal. The central conception of saintliness was a perpetual struggle against carnal impulse, for which the holy man prepared by unspeakable filth and maceration. Not luxury only, but even the merest routine of ordinary

cleanliness was to that view nourishment for those desires which were implanted in man by the Creator, as it was thought, only in order to tempt him to sin and eternal punishment. Other believers less saintly, who shrank from the prescribed remedies of dirt and squalor, but still accepted the doctrine which ascribed all pleasures to vice and all bodily charms to sin, could only recognise, while they deplored, the original and innate depravity of human nature. There was therefore, from that early date in Christianity, a sect or school of thought which regarded abstention from everything that pleased as the only atonement which the corruption of mankind could offer to the ferocity of its Creator. To such a vision the pleasures of sex even in their most legitimate form are the accursed things that must be hidden away in dark recesses, never to be contemplated except by a furtive glance, never to be mentioned, except with a gross grin or a hanging frown.

Puritanism in this sense found a congenial epoch in the nineteenth century, for Puritanism more than anything else is vulgar. And the nineteenth century for the first time in European history presented a period in which a class marked off by its vulgarity took control over state and individual, over public opinion and private conduct.

An aristocracy at its worst has ideals of physical fitness and capacity together with some breadth of mind, and the large healthy laugh of enjoyment and fresh air and open spaces, and woods and mountains and dogs, and a horse to gallop over the grass lands; but the trading classes of the period were born stuffy, and their ambition never shook itself free from a sort of grocer's respectability, timid of soul and rotten to the core. It was they that ruled, and much of what they did was

evil. How far the evil went in matters of sex can be gauged from the fact that William Acton, who at that time was regarded as the chief English authority on the subject, actually asserted that "happily for society the supposition that women possessed sexual feeling could be put aside as a vile aspersion."<sup>1</sup> Another so-called medical authority of the same period declared in regard to one of the most ordinary physical signs of wholesome sexual emotion that "this only happens in lascivious women." The effects are passing now in England, but in the United States this middle-class Puritanism still dominates.

In lands where the Puritan spirit prevails the child is from the earliest moment strait-waistcoated into these distorting notions. It is allowed no freedom to be natural; it is deliberately maimed and crippled, as in some tribes in Melanesia the children's heads are slowly shaped to a deformity. One of the results is this, that, by the time the girl marries, she regards the purpose of her marriage as something shameful and degrading. She probably feels even more sure that her unfortunate husband will regard it in that way, and fears therefore that he will view her as an abandoned woman if she manifests any natural enjoyment in their love. He, poor man, is in a position as unnatural and, in a way, even more distressing. As far as his mind is unspoiled, he would of course welcome all possible response from the wife he loves. All his nature cries out for answering caresses, for tender encouragement, and for the convulsive grasp which proves that he is welcome. But as a citizen of a perverted community, as one who has heard lies only and jeers about sex, he may possibly have come to believe that modest, respectable ladies take no

<sup>1</sup> Havelock Ellis, *Little Essays of Love and Virtue*, p. 110.

pleasure in their functions as women, and that it is only those that are common or venal who can find or give enjoyment. He accepts the situation with a shrug or sigh ; makes no attempt to rouse response ; seeks in their relations as man and wife that selfish gratification alone which he claims as a right and expects without preparation whenever he wishes, and which too often is followed without transition by a sudden slumber. If his character is sufficiently coarse by nature or his mind sufficiently perverted by upbringing, he will be content with this the rest of his days and die a respectable citizen. He may even reflect in his last hours that he has led a good life, and be quite unconscious of the fact that through all those years he has been living in hell, he and his wife and his children with him. Or else, if he is a man of somewhat finer fibre, with some glimmering of the ideal in him, he will be unfaithful and seek delight with drabs, or liberty in liquor. Such is the effect of Puritanism on love and through it upon marriage.

But there is no denying that much of this frigidity and unhappiness might be overcome were it not for the ignorance of the husband. It is no sufficient excuse for him to plead that this too is the fault of his upbringing ; man has been endowed with reason and curiosity in order to find out things for himself, and it is his business to make his way out through the sea-haze of a prurient education. " Seek and ye shall find," applies as much to sane sexual knowledge as to the Kingdom of Heaven. Books which contain the love-lore of the Arabs and Hindus can be bought readily enough and would put at the disposal of the young bridegroom the wisdom of people in this respect more sane and natural. Certainly what excuse there may have been fifty years ago, in that stuffy and stifling period of European morals, has now

ceased to be valid. Literature and teaching on the subject is readily available, much of it in popular form, and there ought to be no forgiveness now for a young husband who meets his wife for the first time without at least the knowledge of how to make her happy. More, however, is required than mere knowledge. Character and some strength of will are needed also, and patience and gentleness, and forbearance. A young girl is not the easiest person in the world to live with, and inexperience and caprice require some skill to overcome. He must in any case be prepared in the interests of their permanent happiness to wait and put off immediate gratification till she has got over her first alarms and shyness. How many men can honestly say that they have waited and watched with tactful love for the coming of a moment which they have themselves helped to prepare? How many whose first mating has left nothing but dear and sweet memories to both? It is unfortunately still too true that most marriages begin with a rape; it is certain that in more than 75 per cent of the unhappy marriages in modern Europe the unhappiness dates from the shuddering repulsions of the first initiation.

These, then, are qualifications which have to be made to the general statement that sexual union and therefore marriage imply the existence of desire. But so qualified the statement remains true. Desire is certainly the matrix in which is found the jewel of love. One has to consider, therefore, what part love plays or should play in marriage. And to arrive at a conclusion one must consider first what part love has to play in life as a whole.

## CHAPTER III

### ROMANTIC LOVE

**I**T is often assumed that certain romantic and poetized passions and emotions which in Europe pass under the name of love do not so far exist in other peoples. But the assumption requires to be further examined. It has been frequently stated in the last hundred years or so that romantic love has flowered on the tree of European thought alone ; that it begins with the Troubadour period after being previously unknown, and that even now it exists only where peculiar European influences have been fully felt. It has been denied, for instance, that the Greeks or Romans knew the meaning of love in this sense, or that it existed in the plays of the Sanskrit dramatists.

There is, undoubtedly, some reason for this opinion, but it requires careful and exact interpretation. It is wholly wrong to take these statements to mean, as has sometimes been done, that love in any high or noble sense was, or is, unknown outside of these narrow limits.

The love of mother for child or the love of friend for friend must no doubt be disregarded for this immediate purpose, though surely such love also may amount to a very passion of affection. But even within the limit of sexual feeling, it ought to be clear that Dido loving Æneas, or Sita in her love for Rama, attain heights as lofty and inspiring as can well be conceived by humanity.



Nor is it easy to know exactly how to distinguish the self-sacrifice of Alcestis from any later instance of romantic love. No, love—love at its most passionate, most transfiguring power—has burned and will burn even where that particular amalgam of chivalry and respect and spirituality that we call romance is not acclimatised. It may even inspire equally noble poems though they be differently expressed. The twinkle of an eye or the curve of a breast will evoke as fine a verse in one hemisphere as in another. Nor are love and its fine tendernesses necessarily confined to the refined and educated. The fact is sufficiently attested by popular songs and ballads in many countries. The poems, for instance, in which the Hungarian peasantry delight, are full of delicate passion nobly expressed. The writer spent two years of his life in an Indian district in the forests. Among the inhabitants were the Naikdas, an aboriginal tribe, who were the wildest and the most backward of all the populations in the Bombay Presidency and among the least developed in the whole continent. So wild were they at that time, and so little touched by outside influence, that the mere sight of a white man coming into their clearings would make the women clutch wildly at their children and send them scampering to the jungle in a scare. They subsisted hardly at all by the most primitive agriculture, throwing the seed into the cleared forest soil broadcast, and chiefly on what they could shoot with their bows and arrows and even on smaller prey like voles and field-mice and certain insects. They were squat and swarthy with broad flat noses and thick negro lips. Yet the writer was once present at a wedding in the tribe on a cold winter's night, between the teak trees, near a great swampy lake which stagnates, where once, long centuries ago, Muslim princes

rode in state through the palaces of Champaner. The little bride was sixteen perhaps at a guess, and the bridegroom a couple of years older. They squatted hand in hand on the turf surrounded by their friends in a circle round a small bonfire. Behind the seated circle were others standing in a crowd, chiefly women and children, all excited at the fun. Within the circle were three of the tribe in fantastic disguises, one dressed as a woman, another striped with white paint as a skeleton to represent the death that waits for all men and leaves them but little time for pleasure. These danced and played tricks and caricatured with laughable obscenity the gestures of desire and the positions of fulfilment. But what was interesting was the bearing of the new spouses. They leant tenderly to each other and one could catch the gentle squeeze of hand to hand as they looked and almost the sound of the soft sigh. There was a lingering langour in her glance, and fire in the bridegroom's eye. Their hearts were calling, it was clear, and they slipped away at last, quietly, to the broad pillow of the forest without notice or comment from their companions. This, too, was surely love, a real love among primitive peoples, less fine, perhaps, certainly less adorned by the associations of art, than among the cultivated classes of an advanced civilisation: but far removed at least above the lusts of mere desire, infinitely higher at any rate than the overpowering instincts that drive our men to the strumpets of the streets or the poor, syphilitic slaves of the commercial brothel. Romantic love, what is romantic love?

In a similar forest tract in India the writer has seen a Bhil boy, a boy of another tribe of forest hunters, leap down a cliff to gather a posy of wild flowers for the girl with whom he was walking and give it to her like a little

gentleman. The upper Indian classes would not have done so—for them such an act would be immodest and lowering. But the poor savage boy had in him, surely, the instincts of true love and Nature's way of courtship.

The truth is that it is easy to exaggerate the differences between so-called romantic love and the love that is generally found in so many peoples and at so many stages of human existence. The exaggeration was deliberately done because the nineteenth century believed in "progress" and in "superior and inferior races," and believed above all things that mechanical invention meant civilisation, and that the parvenus of their generation were the heirs of all the ages and themselves the chosen people. As a matter of fact, in the elemental passions most of the existing human races stand close enough to each other. It is truer by far to say that, at certain ages and in certain peoples, love has been suppressed or distorted by absurd notions—as, for instance, in many of the Brahmin castes of India—than to assert that it does not exist in forms that are already sublimated in every unspoilt people. It may be true perhaps that some savage races have no thorough notion of love. They have, that is, no language for that exquisite irradiation upon the primal sexual impulse which is distinguished as love from simple lust. But the absence of clearly formed ideas does not prove that the affections are not already combined to raise desire to its higher level. In any case it is abundantly clear that in the majority of primitive peoples love is already a powerful, living force. Among the ancient Peruvians, for instance, there were nearly six hundred combinations of the verb that signified love in the Quichua language. And there is hardly a people in the world among whom erotic poems—composed or sung often by the women of the

tribe—do not exist. Broadly speaking it is truer to say that where love does not display itself and only lust is recognised, it is because the former has wilfully been buried alive. One finds little of love, for instance, among the submerged classes of Northern Europe, where an ignorant peasantry has been crushed and depressed till everything that could inspire them and therefore prove ultimately dangerous to their employers, has been eradicated. But all said and done, love is the general inheritance of mankind—it is that which above all else distinguishes the human from the merely animal. The most that can reasonably be claimed is that the Europe which leads the modern world has added a new shade or—shall one say?—a secondary tint to its colours and thereby given love a higher value.

During the first centuries of the Christian dispensation the position of womankind had gradually been lowered. Christianity had soon run to asceticism, and the early Fathers could hardly find terms sufficiently vile for their denunciation of the sex which embodied what they repudiated, the gifts of beauty and enjoyment. The pages of Tertullian show how the ideal of womanhood was debased after the decline of Paganism. Origen taught that “marriage is unholy and unclean, a means of sensual lust.” The degradation of womankind that the Fathers of the Church began was completed by Teutonic custom. The Dark Ages, the ages in which feudalism grew and established itself, forced woman to the lowest depth to which she ever sank in Europe. Disregarded, distrusted, sold and bought and beaten at will, devoted to menial service or the brutal satisfaction of her master’s occasional desire, for woman there seemed hardly a hope upon the horizon.

Yet the grossness of the Middle Ages was in some

respects better than the previous ascetic phase. The earlier age had rejected nature ; the later at least recognised claims of natural desire to be gratified. It was a period at which allowance began to be made openly for sexual faults. Even bishops of the Church sometimes connived at open sin, as in the case of Lothair and Teutberga. But the concessions were usually accorded to one sex only. The man was the more powerful brute, and it was he who had to be humoured. The woman was his property, his convenience, his chattel. She had no claim to pleasure, no right to desire, no title to enjoyment. She was property ; and if she gave herself to another, she was a thief or even a traitor, a spoilt and damaged article, a thing to be beaten or put away in a nunnery or immured in a dungeon or slain bloodily by the sword. To anyone who viewed them from outside, to a traveller, say, from some enlightened Eastern country, the European peoples in that age might well have seemed to be destined to a future of unrelieved savagery and dirt.

But, as the society of the knights and barons grew more stable, it began to cultivate refinement. The leaven of Celtic poetry began to ferment and with the story of Tristram and Yseult, love in its romantic aspect reappeared in the European world. At the same time echoes from the chivalry of the Arab conquerors of Spain made themselves heard in Christian Southern Europe and profoundly affected southern society. Barcelona felt its influence first and chivalry was introduced to Christendom by the Catalan counts and their followers. It was finally in Provence, the rich white sunny province of old Rome, that romantic love found its true growth and took the shape in which it was to influence the world. The troubadours sang it in

every château from Foix to Les Beaux and Aix, in a land where Rome had never wholly died and the pagan nymphs could be seen dancing on moonlight nights in the olive groves. The Courts of Love played their solemn comedies there and set up rules and laws to mould the intercourse of man and woman to a finer courtesy, a higher and nobler value. Thence the new ideals spread to Italy, to a passionate people among whom love had never been crushed out, whether by Church or by Teutonic count or duke; and the image of woman that the Italian made was cast of gold in burning fire. The new spirit turned later to Northern France and England and, if it did no more, at least prepared the ground for the first flowering of the Renaissance.

That there was in this air of chivalry and in the Courts of Love much of pretence and affectation, it would be idle to deny. The reverence for the fair lady who should inspire her knight and be his illumination and his oriflamme was, it is perhaps true to say, a pose. But the pose was at least graceful. As far as it related to the deeds of knight-errants of an earlier age, it was of course purely literary. The knights to whom these romantic episodes were ascribed by the minstrels had actually been, as far as they were real characters at all, mere ignorant and uncouth boors to whom a woman was nothing much better than any other domestic animal. Even Pepin the King, for instance, thought nothing of smiting his wife on the mouth with his fist at a public banquet, an act which seemed so natural to the Queen that she at once apologized for having unfortunately annoyed her husband. But the value of those pleasant fictions did not lie in their historic truth, but in their present validity. It was their influence on the audiences that counted, and the fact that these found themselves

able to respond to their new emotional demands. Those who were inspired by a finer love and a loftier ideal were not the knights who were chosen as heroes of the minstrels' romances, but very truly were those other nobles and counts and chatelaines who clothed in silk and accompanied by dainty pages listened wistfully to the tales and hoped and sighed. They rose to purer heights as they listened, and it was they who created romantic love and thereby brought something heretofore unknown to the poetry of Europe and to its life. They brought a sentiment which even in the dusty cloisters of the schoolmen could be elevated to that passionate concurrence of two souls which reveals itself in the letters of Héloïse and Abélard. With the first dawn of the Renaissance it came to its season of blossom; and all that love implies of spirituality and abnegation is expressed by Dante in his exaltation of Beatrice and in the sonnets addressed to Laura by Petrarch. The flame once lit has never wholly been extinguished; and something of the spark still kindles wherever in Europe a man and woman in the first tender hours of youth seek in each other's eyes the enduring light of God or stand with twined fingers among the wild flowers of a mountain meadow and see (or think they see) the image of their future, love entranced, upon the dim horizon.

Love in this sense has not so much ennobled passion as that it has purified it by self-sacrifice. There is in romantic love a sense of imminent divinity which is an exaltation. It achieves its purpose in the mere effort of adoration; it is the quest which is sanctified, not the attainment; and the glories of romantic love lie rather in its defeats than in its victories. The bride that a man woos, the lady to whom he devotes his thoughts and fancies is not so much the woman that he sees and touches.

Rather he perceives through her the wonder of all womankind and the beauty which informs the world. Through her he comes to the love of all humanity and in the fancied purity of her soul he finds an image of the singleness of God. He worships her as he would the Blessed Virgin, and for her sake holds all women dear and honoured. It is an exaltation and a transcendence, beside which common things shrivel and disappear, and the desire that is offered is like an oblation before an altar.

The peculiar note and quality of chivalrous and romantic love has been heard perhaps most loudly on the man's side. Man has had greater opportunities of expression both in word and action. On the woman's side her idealisation of the man she would like to have has been less vocal; but certainly the young girl has her day-dreams too, and in the silent hours of the night her visions. And she thinks at times of that lover whom she would choose if she had choice and of the man whom she would like to clasp. And where in Europe passion has been led into the channels of romantic love, her dreams will be of one who shall be a true knight, loyal and very tender, with an intelligence that penetrates all mysteries and strength to endure and the personality that guides, and a light in his soul that shall be to her as a light out of darkness. To such a husband would she come gladly and delight would be her gift to him and peaceful trust her dowry.



## CHAPTER IV

### LOVE AND LIFE

THE root difficulty in discussing love is that it never can in any circumstances mean the same thing to all men. Some have a greater, some a less capacity for loving. Here is a finer, there a baser temper ; one responds to grace and refinement, another to rude and lusty vigour. Sympathy and companionship mean all or nearly all to one man ; to another what is of first importance is intelligence ; a third seeks only cheerfulness or passion. But of love in its truest sense, it would seem, sexual desire and friendship fused together at a melting heat of passion always go to the composition. The amalgam which the fusion produces is stronger by far and more resilient than either alone. Love possesses a higher value than friendship and desire together, as long as they are merely placed side by side and not fused into one inseparable unity. But it does happen sometimes—more commonly among persons of one-sided intellectual or critical development—that a man and woman are drawn and held by what is really friendship, by mutual trust, that is, and admiration for each other's talents of brain or charms, and by tastes in common, or sometimes even the accident of partaking in a kind of life that pleases both. They seek each other's company for this friendship's sake because they like to talk together and are congenial from a similarity of

temperament, or share the amusements of art or sport and in their humours find each other pleasant. But being human and physically not unattractive and perhaps young (or at any rate not too old) they are conscious also of the fact that at the right moment they can find other pleasures. One has friendship here at a high point, and, side by side, sex at a pitch much lower ; and yet in the real sense this is not love. There are in this no illusions, or at any rate none of those created by that half-divine, half-childlike vision which is love. If such there are, they are on the side of friendship, and are rather errors of judgment and mistaken trust than true illusions.

So, in national ideals also there are those in which the accent is laid on one side or the other, in which perhaps the fusion is not thoroughly effective, or in which what is valued is too exclusively one element or the other. In Hindu India, to take an instance, the poets have emphasised in love mainly that devotion which must certainly always be a main ingredient in friendship. For various reasons the passion of desire has tended to be discountenanced, though it is found forcibly enough in the Prem Sagar, and in various of the Bengali Bhakti poems or poems of adoration to the loved God Krishna. In the classic drama, as in the mind of those Brahmins who have chiefly shaped the intellectual development of the Indian people, desire is abstract and restrained. Yet the love that is set forth is not sexless, for its manifestations and obligations are conceived in accordance with the eternal laws of sex. The functions of male and female as elemental forces in the creative evolution of the universe are never forgotten and in epic or drama the hero and heroine are as it were incarnations of their everlasting power. But passion does not enslave them. Duty, devotion and self-sacrifice are the motives that

inspire and embellish Sakuntala or Sita. Yet it is a devotion that burns brightly as a passion, tremulously tense.

In the literature of Persia, however, more than anywhere else in the East, is found a love so intense and passionate that it can be compared for depth and power to the greatest creations of Europe. The odes of Hafiz, the poems of Jami are filled with its spirit. But it is in the five great narrative poems of Nizami that one sees it in action between man and woman and knows it for what it is. The story of Joseph and Zuleikha, and even more the monotonously sad legend of Leila and Majnun—"The Lady of Night" and "The Distracted"—are the sweetness of love long-drawn-out on its tenderest notes. But in the Persian soul the emphasis is on the other side, on desire rather than friendship, on a desire for passionate contact so absorbed that it becomes almost selfless, almost ethereal. It is the beauty of the adored that is sought, that beauty of the body which can be felt and touched and enjoyed. It is not so much the soul, not the mind, not the purity of heart that is worshipped. Yet the beauty too is regarded as a symbol of God and the embodiment of divinity; and union is sought with the beloved as with the ultimate cause of causes. The lover casts aside all thought of himself and seeks to give himself so completely as to lose his personal existence in that of the beloved. Akin to Persian poetry but in a form more human and terrestrial is the love that sometimes laughs and sometimes weeps in the tales of the Thousand and One Nights, the wisest and most diversified of all the collections of human fancy. Through the *Arabian Nights*, one might say, ride in Eastern garb both Don Quixote and his good necessary squire Sancho. On one page is desire without disguise,

open and frank in its sensuality, cheery and good-humoured and full of loud laughter, of a plain healthy natural grossness ; and on the next is passion so uplifted that men swoon at a glance from her they love, and are capable of every sacrifice, even of life itself, for but a vision of a rounded cheek, snatched through a veil in a dark *boutique*, under the covered bazaar.

These are ideals of love to be found both in East and West, in which mere desire is far transcended. In the one it is perhaps rather a feeling in which thought is enshrined, and in the other a cry that bursts from the heart. How far practice has marched with the ideal is a question that need not be too hard pressed. That it has not always done so is obvious enough. It has too often happened that all the fine standards of conduct have dropped away in daily intercourse with those with whom one is closest. So often is this the case that in the age of the Troubadours the Courts of Love discussed seriously whether love in any ideal sense was possible between man and wife. The general opinion which prevailed was that it could exist only when the pair was not lawfully united, and that the light of the ideal could escape extinction only when there were obstacles and dangers or perhaps years of separation between the lovers. In Persia also, life in the Andarun, or women's apartments, was usually far enough removed from the ecstatic outpourings of Nizami's imaginations. And yet it may be conceived that to some extent at least the proclamation of such ideals did alleviate the daily routine and that the darkest corners were made a little fresher by their rays. It often occurs that what begins as an affectation in time becomes second nature ; and courtesy, if it constantly practised outside, may sometimes end by entering the home.

Regrettable, however, is the decay or decadence of

ideals which have once been held. Romantic love, for instance, has tended to decline to a sentimentalism that is as misleading as it is mawkish. Even at the apogee of love's exaltation it was easy enough at times for its transports to pass to the ridiculous, as Cervantes knew well when he drew his hero's Dulcinea. Thus too, in our own generation, flippancy and cynicism often disguise a revolt against second-rate sentimentality.

Yet, thanks to the researches of modern biology, there can be no doubt whatever of the supreme part that love or sexual desire plays and has played in the development not only of man at his highest and of the human race at any stage but also of all animal life on the terrestrial globe. We can see life as a whole like a great storm of creation, hurled across cloudy darknesses tumultuously by the strain of two immeasurable forces. And the names of these forces are hunger and love—the need to be nourished and the will to reproduce. From one or the other has sprung everything that has made life—from the one murder and conquest and the shaping of tools and the strivings of ambition and the cruelties of wealth and the wretchedness of exhaustion; from the other, beauty and colour and song and dancing and clothing and adornment and letters and painting and the ivory carving of the cave man and the tombs of the Medici at Florence and the pieties of family and the husband's respect for the mother of his children. From love have sprung all the impulses that have made mankind tolerant and life endurable—all that has veiled for a moment the bloody business of self-preservation or brought forgetfulness of the hour when death shall overtake. On love have been grafted all the arts that are glorious and all the arts that are fine. It is not too much to say perhaps that no man has done anything

worth doing except he was driven by love, though it were repressed and he not sane but in madness. There has been no genius and hardly even a great man who has not been the servant of sex and often its slave. Indeed among the victims of love may be put even the prophets or founders of religion who, abstaining with an effort from carnality, drove inward the sexuality that they repressed and sublimated to a celestial and feverish fervour. Their burnt-offerings to the Kingdom of Heaven were the ashes of a human heart. Of artists and writers there is hardly one whose work has not been shaped and shaken to its depth by the cravings of sex and the visions of distracted love. In all literature perhaps Carlyle is the only exception, and he a pathological case. For the rest it is well known that most of the greatest writers have penned unpublished obscenities as the parerga of their superfluity, while the coupled figures that Giulio Romano drew to accompany Aretino's work are not the isolated pastimes of a great painter. The lion carries his mane and the stag his horns, fishes press up the rivers to the nets, birds put on their brightest plumes, thrushes sing, hedgerows burst into flower, and the whole of Nature stirs itself in spring for love's sweet sake; and for its sake often enough in Nature death also is faced and the scorpion and the male spider die in the act which creates fresh life. Of the two infinite and cœqual forces, love is one, and it is the more articulate.

To the race undoubtedly one of the most important aspects of love is the part that it plays in natural selection. Here unfortunately one is brought to a stand by the failure of science. Exact knowledge comes to its end and one is left to what is only conjecture, however plausible it may be. Eugenics is a new study and its

data insufficient. It appears probable, however, that in Nature it is the selection of mates which secures that the offspring are vigorous and fit to survive in that struggle in which the species or the race is built up. And it seems clear that the method of selection which Nature favours is through desire or, in other words, is that of choice in accordance with love. With animals in a wild state it does not appear that different motives for selection are operative. For animals in a domestic state the selection is artificially made by their owners not in the interest of their own race but of their masters. It is easier, therefore, to draw fallacious conclusions from their examples than to elicit valid laws of natural selection. On the other hand, in the case of the human race, the factors are too complicated and too problematic for it to be possible to isolate mere sexual desire from the other elements which combine in love and from the other motives which often contribute to marriage. All that can be said with certainty is that love must be a factor of primary importance in securing that the children who result from the union shall be healthy, vigorous and fit for survival in a physical sense. It may be added with considerable conviction that it is inconceivable that any method of mating other than in response to healthy desire can possibly produce offspring equally capable of surviving in the struggle for life. Further data are, however, absent and exact proof cannot at this stage be brought. All that can be said is that these are assumptions which it appears safe to make at this stage of our knowledge of heredity and variation. If so, it is clear that love is a matter which should touch each nation closely and that the presence of love in unions which may result in children is a business in which the State is interested.

To the individual, on the other hand, life without love

is a desert of wasted effort, a dreary round of routine and aimless futility. To every man at every stage of human development love in a degree compatible with his capacity is needed for his happiness, in the Aristotelean sense of self-perfecting, as much as for his contentment. But in an industrial society, with the conditions that prevail where production is by machinery and the means of production in the hands of capitalists, the need is more urgent than in less unnatural surroundings. In such a society nineteen-twentieths of the people are submerged in a dull servitude, which is only the more pathetic when they do not themselves recognise their own wretchedness. From the drab monotony of their lives the only means of escape are, in general, either drunkenness or the pleasures of sex. The price paid for the former is too high, both in physical and moral collapse and in mental imbecility. For the latter the capacity may be reduced by ill-health and exhaustion and the enjoyment limited, but, such as it is, to vast millions in every modern human hive, love affords the only outlook towards the beatitudes of the infinite.

The men who work ten or twelve hours a day year in, year out, to get wealth or read their names printed a few dozen times in a few years in the daily sheets before they die and feed the worms, or who toil dryly and dully to achieve a star, a title, or a place; the dreary, empty-faced women who never smile softly and are never gentle or reposeful; those are they who do not know love and yet remain unconscious that their lives are foolish and their work wasted. Yet it is they who presume to judge others and contrast their own whirling emptiness with the real fullness of other lives that seem perhaps more idle.

But what love can mean no man may ever say till he has watched one die who had been all in all to him.



They had gone together, it may be, through many vicissitudes and taken chances and seen poverty close at hand and come again to greater ease, had encountered danger side by side and had tasted also of many joys and been content. They had looked into the face of death not once but often and their eyes had not dropped before his, while they stood together. They had met life gaily enough in sickness or in health and had upheld each other in a kind of happy pride upon the path of honour, when to do right had meant loss and censure and a career knowingly thrown aside. There had been no murmuring and no repining, and the wife's fingers had rested a moment on her man's shoulder with a light and loving pressure, which showed she would rather have him so. They had had always perfect confidence, absolute trust, a faith that was unflinching. And perhaps they had been busy upon plans for a future of rest for both, and had reached out in their thoughts to a few more years together of easy happiness, and pleasant voyaging in sunny lands with cheerful company. And now the supreme sorrow has fallen upon them, and she, whose soul had been conterminous with a universe, lies in the weariness of death on the bed that had been theirs, her being narrowed and confined to a mere structure of flesh and bone, straining in silence against dissolution. Beside her, helpless, is he who was her man, her husband, and her protector : and he watches the cheeks grow hollow and the eyes dim, watches for the brave answering smile that comes more faintly and more seldom, and sees the thinning hands that twitch and twist upon the linen sheets. He sits beside her in the day and beside her in the cold hours of the night and marks with growing hopelessness the weakening respiration and the failing pulse. Oh, the long agony of

waiting when the play is nearly over and the game already lost ! Hope has nothing left to feed on and there are dreadful unwilling moments when even death is looked for as a respite from intolerable sorrow. Thus is love come to its breaking ; and, with it, break strength of mind and will and fortitude. With her whose poor remains are carried forth to be hidden under earth where a stone mocks her real presence with its graven words, has gone from him who stays behind all that had been the colour of his life and all its value. For many years the world had been for him such as he had seen it imaged in her eyes, and he had toiled and striven not for power alone but that he could return each evening, his work well done, to the comfort of her companionship and the wealth of her caresses. She had been to him as a beacon on a mountain and as a light upon the sea. And now the shadows have descended and shrouded the world as with a mist. He sees all things dimly and gropes in a darkness where he cannot find a way.

## CHAPTER V

### THE MEANING OF MARRIAGE

**L**OVE, it has been shown, in the measure of each man's capacity must be a condition of his fulfilment. Without love no man or woman can attain to the full development of natural powers or achieve the happiness that comes with the perfecting of one's functions as a full human being—mind and soul as well as body. But it still has to be asked whether it is in marriage that love should be expected; or, to look at the question from a slightly different aspect, whether marriage should be based upon the love of husband and wife. The question is not as easy to answer as may at first sight appear. It should be approached at any rate without the hypocritical sentimentality which pretends to find a romance in every marriage, even when all the world knows it has been arranged for political or even less reputable reasons. But before discussing marriage one must know of course what it means. And curiously enough no accepted definition, it would appear, exists of marriage. That it implies at any rate the sexual union of man and woman is clear—that thing at least is of its very essence. But the sexual union may be promised only for the future—for perhaps a distant future—and yet the thing be a valid marriage binding in the Law Courts of the particular country in which it happened. In India, for

instance, especially in the higher classes, so-called child marriages are of daily occurrence. These are fully legal unions contracted for them between two children. The children are far too young for consummation, but the ceremonies convey not only an undertaking to cohabit later on when they are matured but also establish, from the very moment of their conclusion, all the rights and disabilities in regard to property for instance and inheritance, which ensue upon a binding marriage. It may also be recalled that, though marriages of this kind between children are no longer in fashion in Europe, they were till recently common enough. One need not go to the records of the aristocracy in France or Italy for examples. A more popular instance is provided by the archives of the diocese of Chester. There in the middle of the sixteenth century are found marriages between baby girls of two or three years old and boys of three or four. The children were carried into the Parish Church in the arms of friends who spoke some of the vows of matrimony for them as their baby tongues could not repeat them all for themselves. These child marriages were consummated after reaching years of discretion, which were supposed to be twelve in the girl's case and fourteen in the boy's; and they were still allowed to void the marriage at that age if it was not consummated. In these cases it was expressly stated that the matrimony is *de futuro* and not *de presenti*.<sup>1</sup> Consummation is therefore not part of a general definition. But for a valid marriage there must be at the very least the intention to consummate. The Christian Churches indeed have invariably laid special stress upon this fact and have been right to do so.

<sup>1</sup> *Child Marriages, Divorces and Ratifications in the Diocese of Chester, 1561-66*, by G. P. J. Furnivall.

Though there is a general agreement on this one central fact of marriage, upon all its other incidents and attributes—on all those attributes that distinguish it from other forms of sexual union—there is, contrary to popular opinion, little except divergence. Commonly enough people seem to imagine marriage is a thing, one and indivisible, a thing that every one knows, something that can be recognised at a glance, that is clear and obvious and needs no definition. They often talk as if they fancied that it is, and always has been, the same and never changes. Yet in the British Islands themselves there are in law at this day three sufficiently different forms of marriage. The Irish are fortunate or unfortunate enough to find it less easy and more lengthy to marry than the English, and to lack that divorce procedure which is the peculiar pride of England and Wales. In Scotland marriage can be slid into without difficulty or waste of time, and requires no sanction either from Church or State, and divorce is at least easier and less irrational than south of the Tweed. It is a personal status. Registration is not needed to make it fully binding, and fortunately enough marriage also stands to all intents and purposes out of the purview of the Church—whether because the country is poor and the Scot economical, or because the ministers wished at all costs to avoid Erastianism, is not perhaps quite manifest. In England itself marriage has, within two generations, thoroughly altered its meaning and complexion, as a result of the passing of the Married Woman's Property Acts in 1870 and 1882. It is mere cant and affectation to pretend that, because we go on using the same words, therefore the relationships entered into by man and woman are the same when, on the one hand, by the deed he obtains, not only full control over, but actual

possession of her money, her estates, her earnings actual and future, or, on the other, joins in a partnership in which he assumes liabilities but obtains no material advantages. In the same period the spirit in which the business of marriage is commenced and carried on has also undergone changes, so great as to make of it something very different from what it used to be. Many now living must know this from their personal experience or observation. It will be equally clear to any one who takes the trouble to read an English novel of sixty years ago and compare its situations with the facts of life to-day.

But be that as it may, the United Kingdom is not the only country in the world, and Englishmen, at any rate, are sufficiently wide-travelled to appreciate this fact with all its consequences. One has but to cross the Channel to discover in the narrow family life and intimate domesticities of France a concept of marriage very different from the light-hearted and even light-headed manner in which man and girl at a moment's attraction stumble into it together at home. The Law is different too in important respects; the council of the family watches like a wary dragon over the hidden treasures of the domestic felicities or their burdens: and the sword of penal justice is suspended over the head of the adulterer. Moreover, a marriage in France gives definite ascertainable rights of succession and inheritance: the wife is not left as in England to the caprices of a husband and the incalculable whims of testamentary disposition: settlements are openly discussed and publicly notified: and the claims and duties of common proprietorship are strictly laid down and followed. Of the spirit, which is after all the sap of such a human relationship, it is unnecessary at this stage to speak. Whether it be better

or worse or whether it is merely attuned to different chords, it is at least very different from what exists in England. And in every European country there are variations in form or spirit, in intention or in obligation, that constitute of what in each passes for marriage something appreciably and notably divergent.

Yet in the European countries, however great these divergencies are both in regard to the underlying ideals and the current practice, there are at any rate similarities sufficiently striking to make it possible by a process of abstraction to discover a certain common residue that might serve perhaps for a somewhat tenuous definition of a generalised European marriage. It would be a definition not very exact, not very illuminating: it would not be of much practical use to a learner: but it might serve at a pinch to round off a study or a treatise. It is true perhaps that there remain in all these countries enough of common ideas, ideas derived from Roman law and Germanic custom and Christian doctrine, for a vague and rather inexact general description to be drawn of their matrimonial institution.

Pass however from Europe as it is to-day, and all becomes at once chaotic. Whether one looks to the past history of this continent or to the other peoples of the globe as they now are, the general conception of marriage becomes more and more indeterminate and indefinable. Without losing oneself in primitive beginnings and speculating on marriage by capture, matriarchy and the rest, even as it now is marriage covers in one land or another, within one people or a second, almost every form in which fancy can conceive the union of man and woman. At one extreme there is polyandry, a marriage in which one woman has, at the same time,

several husbands over whom she exercises in general no small degree of authority : at the other are kinds of polygamy in which one man possesses several women—often more or less prisoners—for his sole use and enjoyment. One has marriages as in Persia under the Muti system, contracted from the first for a limited period that may be as short as a night, which yet secure within prescribed limits rights of maintenance to the wife and rights of succession to the offspring. One has espousals in which divorce is almost without restriction at the disposal of either party as in Burma : and alliances as among the Brahmins of India which not only are indissoluble during the lifetime of the parties, but are presumed to be equally binding through all the cycles of possible metempsychosis. In certain cases, as in many African tribes, a wife is taken as one engages a farm servant, to toil in the fields or labour in the household : while in the South Sea Islands at the other extreme woman was wooed and cherished as the loveliest of Nature's works.

And again under the outer walls of marriage in the dark shadows cowers what is its complement—the squalid and melancholy house of prostitution. Without considering what this means, it is not possible to grasp the full design and implications of marriage. For it is certain that some types of marriage—and these not the least respectable—could not possibly be maintained if the prostitute did not exist at their side. If anywhere there is a land in which marriage cannot, on account of economic or other reasons, be entered on by either sex till several years after puberty, in which work or pleasure forces or induces men to travel frequently and for relatively long periods without their wives, in which divorce to end unhappy unions is permitted little or



not at all, in which industry is so badly organised that periods of unemployment must recur in every trade after periods of over-production, and wages are normally below the requirements of decent comfort, if competition or the ownership of means of production by a few persons compels the rest of the population including women to hard toil outside of the home, and if at the same time great luxury is attainable at a price and is everywhere openly flaunted, if moreover in such a country the higher ideals of human conduct and enjoyment, of art and the finer emotions, of delicate and passionate love are crushed out by general mechanical contrivance—if such a land there be—then in such it is sure that one thing and one thing only can still support what continues to be called marriage; and that is prostitution. It must exist on a large scale, it must be widespread, it will be tacitly encouraged, it will be openly disavowed. But in such a land, if such there be, every one in the high places of orthodoxy, who upholds marriage as it is there instituted, must in his heart know that he is at the same time upholding the prostitution by which alone it is made possible.

Westermarck, in his *History of Human Marriage*, has suggested that besides the common element of sexual union a more or less durable connection between male and female lasting beyond the mere act of propagation till after the birth of the offspring is the one and only factor that constitutes marriage. The definition, however, fails to be exact and does not contain a true *differentia*. Many a connection that is not marriage has at least as much durability and more than this. On the other hand there are as many unions recognised as perfectly valid marriages where there is no such duration. The true mark of marriage is not to be

found in its lasting quality but in something very different.<sup>1</sup>

An equally great authority who, however, approaches the problems of marriage by the path of the law rather than of sociology has made another suggestion. Lord Gorell, in the appendix to the report of that Commission over which he presided with conspicuous ability, has written that "the relationship of marriage is regarded as creating a status resulting from the joint life which alters the position of the parties towards each other and the community." The legal terminology is rather indeterminate and tends perhaps rather to obscure the meaning of the author than to elucidate the fact which he intends to emphasize. But what Lord Gorell has rightly observed is simply this: that recognition of the union by the community constitutes of itself by its own weight that status or social relation which is the essence of marriage and which contrasts it with those other forms of sexual connection to which a similar status is not conceded. When reduced to its root meaning it amounts to no more than this: that the title to respectability ascribed to the union by the social group in which the parties live is what constitutes a true marriage.

There is indeed beyond the element of sexual union only one other common element that appears in all the various forms of marriage which exist. And this is the element of public approval. But approval is required from, and is necessarily sought only in the particular human group to which the parties to the marriage stand in relation. This approval, it is still more clear, need not necessarily be intelligent. It need not be supported by

<sup>1</sup> In his *Short History*, Professor Westermarck has now adopted a definition which does not much differ from that which is suggested in this chapter.

any good reason of any kind. It has only to be based on custom. But such as it is, it is sufficient, it would seem, to convert in popular opinion a relationship which would otherwise be natural only, and therefore possibly sinful, into a valid marriage. The way in which approval is signified differs of course in various peoples. In one it happens by a tacit acceptance of the situation ; in another it is by the costly accompaniments of flowers and carriages and cocked-hatted beadles and the rolling sounds of an organ and wedding-marches and solemn blessings. In all cases what really matters is the finished respectability of the business. Whatever the terms of the bargain were and however the woman was bought and sold, it is marriage and not prostitution as soon as the general public accepts the union as being in line with respectable tradition.

To sum up, the only general definition that would appear to cover every type is this ; that marriage is any sexual union, actual or promised, between man and woman which is considered respectable by the social group in which they live.

In this definition it is not possible to insert even an indefinite article and speak of any unions between a man and a woman. To do so would be to exclude firstly the polyandrous unions between one woman and several men which in a few regions exist as legitimate marriages. Of course by European ideas any such arrangement is scandalous and deserves stern reprobation—though it is sometimes whispered that combinations of this kind are not unknown in Europe and occur not only when the lady is unmarried but sometimes even if the rightful husband finds it worth his while to close his eyes. Secondly, a definition must be wide enough to include polygamous unions or marriages between one man and

several women. These form actually the most numerous class of marriage, and they are not those which are least successful. Apart from all other considerations, however, they could not be introduced into modern Europe as under present financial circumstances the average European man could certainly not afford to maintain more than one wife. One is as a rule quite as much as he can manage. In a country where polygamy is established a man, however, is obliged to keep the woman whom he has relations with and her children. In Europe it has been arranged more conveniently—as far as the man is concerned, that is to say. His responsibilities are limited at the most to one woman and her children. By English law even these responsibilities are vague enough. For all the other women with whom he has cohabited the law frees him from care or charge. And it must be confessed that this is one respect in which even rich men in Europe are usually careful to abide within the law.

The definition must therefore stand as it does. It does not help one very much, however ; for it is only by experience that what is or may be considered respectable at any moment by any special group can be learnt. There is no means of knowing it beforehand. It cannot be deduced by any reasoning.

Alternative definitions can of course be attempted or suggested for single social groups. Thus, for instance, the beginning of a respectable union is in most countries the occasion of some ceremony and expenditure of money. It has been a general custom to feast friends and relations, a custom surviving in the strong tea and weak champagne that are usually served round on such occasions in England. In many lands there is also some form of mutual prayer to a deity or a benediction from

some one accredited with special powers. The most human part of the marriage ceremony is usually a present to the bride, which is at least some acknowledgment of the fact that in giving herself to her husband—even if she has been sold by her father or has made her own market—she is still presumed to be giving something for which he should be grateful. In each case a definition or at any rate a description might perhaps be based either upon the ceremony which makes the thing respectable or upon the legal or customary incidents which ensue. But such descriptions would be innumerable and each different from the other. They would not help towards a general conception of marriage; they can be useful only for the understanding of particular types or forms.

In Europe the best known of such descriptions are of course those drawn by the Christian Churches. One is forced to speak in the plural for regrettably there has been no marked agreement among the various Churches on what marriage should mean and imply. There has not even been any notable consistency within any one of them on the subject. Both ecclesiastical ideas and ecclesiastical law have tended to grow and alter from one age to another. After the Reformation the Protestant Churches in particular, with their mixture of individual reason and the faith that comes from divine grace, have found themselves in no small difficulties in their teaching about marriage. Their attitude or rather attitudes will require fuller attention at a later stage. Here it may suffice to say that it appears to be impossible to extract anything as simple as a definition from the Protestant professors. Catholic practice has of course also suffered vicissitudes, especially in the first four centuries and again after the Counter-Reformation. But certain

features at least stand out in Catholic doctrine as essential.

That marriage is a sacrament is at the root of the Church's teaching. In other words the benediction which is required to constitute a valid marriage is something magical or, if one prefers the word, something mystical, by which the mating of the man and woman changes its character. Those who live together without this benediction are living together in sin, however fine or unselfish the love may be by which they are joined. With it any union becomes purified of grossness, as far as in the ecclesiastic eye any sexual relation ever can be, and is accepted as the image and symbol of the union between Christ and his living Church. Such is the sacrament, so great its efficiency, that the merely physical is elevated to something transcendental and the divinity of spiritual love emerges purged and pure. But this is of faith and not of human understanding.

It must be added also that from the point of view of a believing Christian no union between a man and woman other than one thus consecrated between Christians can properly deserve the name of marriage. The fact may be glossed over by habit or political prudence ; public opinion may be contemptuously indifferent or politely tolerant ; but it is none the less the case from this point of view that the man and woman joined otherwise than by the Christian sacrament can only be considered to be living in sin. This view is perfectly logical and on the premisses correctly deduced. The grace which derives from the sacrament and makes holy the estate of Christian marriage can obviously not descend upon those who have not partaken of it or have never been baptised. If men can be reconciled to God through Christ only, then the mating of a person unreconciled and in the state of

sin with another person also unreconciled and in the same sinful state is rather an association of perversity than a promise of holiness.<sup>1</sup>

From the European point of view these are the two definitions or descriptions of marriage which need be regarded. On the one hand is the Christian concept as set forth by the Catholic Church, the depositary of sacred and traditional Christianity, by which it is a union at the same moment essentially physical and essentially mystical and by which it is not merely a concession to human weakness—"better to marry than to burn"—but also a symbol of the divine union of God and congregation. On the secular side, however, the only definition which seems to contain all that is essential and common to every marriage and all that distinguishes it from other no doubt more general but less reputable arrangements, is this: that it is a union considered respectable by the social group to which the parties belong. With one or other definition must be concerned all discussions of the institution's value, its contents, its benefits and its remedies.

<sup>1</sup> *Holy Marriage*, Oscar D. Watkins, 1924.

## CHAPTER VI

### LOVE OR PRUDENCE AS A MOTIVE FOR MARRIAGE

**I**T is now presumably clear that sexual union is of the essence of marriage. The argument so far followed has been that such a union implies desire, however temporary, on the part of the male at least ; that in almost all peoples desire has very early merged in love at a higher or a lower stage ; that the particular form which love takes depends on the capacity or receptiveness of the human beings involved ; that it may ascend at its highest and tensest to such a spirit of noble passion as breathes through Persian poetry or to such a chivalrous adoration as inspires much of the loftiest of European sentiment ; or that on the other hand it may sink heavily to an insincere and corrupting sentimentality. It is evident at all events that love is an emotion dominant in the relations of men and women. It may be taken that love is necessary for the higher purposes of life. But it has now to be considered how far true love is required within the limits of marriage.

It should be remarked to start with that several of the most civilised peoples and many of the wisest men have considered that love in any valid sense of the word was out of place in marriage. In marriage they felt there should be, besides the irreducible minimum of crude sexual appetite, a marked affection and a good homely quiet trustfulness ; but anything like love in its



deeper sense they felt to be improper, disturbing, undignified and revolutionary. When love flies in by the window, steady respectable money-making citizenship, they feared, might walk out of the door. Thus for instance in the oration against Neæra ascribed to Demosthenes this point of view is put with a bluntness that is nowadays evaded. "We keep mistresses for our pleasure," the orator said, "and wives to bear us legitimate children and to be our faithful housekeepers."

The attitude is a common one even in countries where all the world conspires to profess that marriages are constructed out of love only and to maintain the fiction that monogamy really exists for men as well as women. It has its complement in the remark so often heard—especially from the judicial bench in matrimonial cases—that no husband would show his wife certain books, dramas or pictures, which it is assumed men would quite readily show to other women from whom they look for pleasure instead of duty. Put at its best apart from its inevitable hypocrisies, the view is based upon arguable enough grounds, namely, that "the mutual attachment and respect of the contracting parties, the formation of a household and the long train of domestic feelings and duties that accompany it have all their distinguished places among the motives of the contract, and the lower element (of the gratification of the passions) has comparatively little prominence."<sup>1</sup>

There is of course no reason to suppose, as the distinguished writer who penned these lines evidently did, that love or the gratification of the passions is a lower element than for instance laying by money to own a house or kindling a fire or cooking a dinner. On the contrary, there is every reason to believe that the

<sup>1</sup> Lecky, *History of European Morals*, Vol. 2, p. 278.

gratification of the passion of love is a stimulus to the brightest effulgence of human genius and the highest raptures of human joy. But, if this one error due to the curious obliquity of the period be excepted, the sentence fairly and reasonably states the view of those who hold that love should be no necessary ingredient in marriage. The view was on the whole that held by the ancients until the Republic of Rome wilted under the weight of capitalism and passed to the maturer culture of the Empire. Until that date both Greeks and Romans had in different ways, one finer and the other grosser, sought a certain prosaic comfort and gravity in their households with which they were afraid passionate love might prove incompatible. Men found relaxation from the affectionate respect or respectful affection of the home in the companionship of the *hetaira*, the *porné*, or the slave girl, when they did not seek it rather in the *amitié amoureuse* of an eager adolescent. How the wives found compensation has not been recorded with equal precision by contemporaries—history was written after all by married men—but that they found some may be taken as certain. Generally there appears to be no reason to suppose that homes were not tolerably happy—meals were served all right, children looked after and sent to school, and husband and wife no doubt settled down to a comfortable mutual misunderstanding as they grew older. They had to learn to shut their eyes to a good deal of course; but as they did not start by being in love there was no particular reason why they should not. After all this is an ideal like any other; but it must be confessed it is rather a dull and pedestrian ideal. It serves all right for dull people; but it is not much use without a great deal of outside assistance for any one with finer feelings. The Rome of the Empire of course

had other views—the views that one associates with modernity—and love was made as frequent an excuse for marriage as it was for other affairs.

In modern Europe the opinion that marriage should be based on considerations other than love is held often enough and strongly enough, especially by persons of a studious and laborious temper or by parents. The opinion as it works out in Great Britain—where by the social conventions it is customary to do at least lip-service to love—and in the mind of a man of great attainments and undisputed eminence can be made manifest from the pages of Professor Lecky in his *History of European Morals*. “It by no means follows,” he writes, “that because the lifelong union of one man and one woman should be the dominant type it should be the only one, or that the interests of society demand that all connections should be forced into the same die. Connections which were confessedly only for a few years have always subsisted side by side with permanent marriages. . . . It is extremely important both for the happiness and for the moral well-being of men that lifelong unions should not be effected simply under the imperious promptings of a blind appetite. There are always multitudes who in the period of their lives when their passions are most strong are incapable of supporting children in their own social rank and who would therefore injure society by marrying in it, but are nevertheless perfectly capable of securing an honourable career for their illegitimate children in the lower social sphere to which these would naturally belong. Under the conditions I have mentioned these connections are not injurious but beneficial to the weaker partner; they soften the differences of rank, they stimulate social habits and they do not produce upon character the

degrading effect of promiscuous intercourse or upon society the injurious effects of imprudent marriages, one or other of which will multiply in their absence.”

There is perhaps some seeming selfishness in these remarks, coming as they do from one of the male sex, one of considerable social position and one who was well off. It might appear for an instant to a hasty and malicious critic that the writer had perhaps been slightly diverted by self-complacency from observing the conflicting interests of the girl who was seduced and became the temporary mistress and the bastard's mother. Deeper consideration of the passage will, however, show that such criticism is premature ; the writer has regarded her feelings also or at any rate her solid and permanent interest. Having so regarded them, he remains of the deliberate opinion that the girl also can only gain by a connection which actually gives her the advantage of knowing a gentleman and learning something of the usages of good society, including no doubt that of casting off a mistress when one has earned sufficient money to marry, a connection which has further bestowed upon her the unexpected privilege of bearing a gentleman's illegitimate children. Viewed from this practical and eminently respectable point of view, she should, if she is sensible, be only too thankful to have had the chance of being useful for some years to a man of good position whom she has preserved on the one hand from social difficulties and on the other from disease, and should gratefully retire to obscurity, when the time has come, with such pension as he may care to allow her. Against these advantages it would obviously be merely perverse on her part to weigh such things as her parents' grief—they may have been quite common people themselves—the loss of her own friends or position, or,

should she still be left with feelings, a bruised or broken heart. That Lecky's words expressed the view of the respectable and sensible section of his countrymen is shown by the universal acclamation that accompanied his career and the Order of Merit which signified his country's and his sovereign's approval.

Marriages based upon prudential motives can be studied with some precision in various contemporary societies. Greater insight into the problem can be gained by the view of such a system as it works in practice than by any amount of abstract reasoning.

Thus in India, for instance, especially in the higher castes, marriages are concluded at the parents' choice, mostly when the parties are still too young to have an inclination of their own ; and naturally the motives that move parents are at least to some extent such as can fairly be called prudential. That they are not so altogether is due only to the obligations imposed by Hinduism of marrying children very early and of seeing that no girl remains unmarried after the age of puberty. To secure these ends immediate prudence in regard to income has usually to be sacrificed. Other matters, however, such as family, position, health, character and so on are carefully weighed and calculated. In a later chapter a full account will show as closely as possible how the system works and what are its results. In the meantime it may perhaps be stated that it does as a matter of fact work out fairly well in the majority of cases, and produces a good deal of quiet affection and simple satisfaction. A religious sense of consecration and the mystic devotion with which the wife enters upon this state account for what success it achieves. Except in rare cases, however, it certainly fails to reach the heights and it leads unhappily to no small amount of preventable sorrow. At its worst

it can be terrible and it has inspired barbaric privation and barbarous cruelties. The losses it has inflicted both in regard to artistic development and to racial vigour and also by way of economic disaster are important and incalculable. That it has succeeded even as well as it has done is due undoubtedly to the kindly quietist and resigned character of the people.

The particular type of prudential consideration, however, which merited Professor Lecky's praise is not conspicuous in the Hindu system. Indeed he would not have appreciated the mysticism which inspires it, and he would hardly have pardoned early marriage on an insufficient income, merely because the fervours of desire and the sweets of illusion were banished from the union. But another system which employs prudential selection may be studied more easily and closely across the waters in France. In France, as in every other European country, society is at this moment in the cross-currents. The stream was already swollen when the clouds of war broke. Then came the flood and hedges were laid low and the old boundaries submerged. Now not only are ideas changing and old beliefs in the propriety of certain relations between men and women gone, but also the settled values, the fixities of property and estate, the stable principles of work and saving are shaken and transitory.

The former system of France had been erected above all else upon an assumed continuity of the family and its belongings, or an almost Roman sense of the permanence of the institution and the massive impregnability of the home. Marriage was first and foremost one of the corner-stones on which the structure of society rested. It could be contemplated only with the approval of parents and of the assembled family

council, with partners suitable in point of education, of similar sentiments and manners and of proportionate fortune. It is only right to add that, at any rate among the upper bourgeoisie, which for more than a century was the main strength and support of France, and supplied those official and professional classes who have maintained her stability and her enlightened tradition, more attention was paid to moral and educational standards than even to wealth or size of dowry. At the same time there was a general expectation that a man marrying should obtain with his bride a dowry which, when invested, should add as much again to his annual income as it was at the date of marriage. A young advocate, for instance, earning, say, £500 a year at the age of twenty-seven and marrying at that age would expect to marry a girl whose father could put down a capital sum of about £12,000. With this in hand the young couple could start life together without discomfort or sacrifice of such comforts as each already had ; by the prudent administration of the capital they jointly commanded they could add considerably to their common income ; and owing to her contribution to their partnership the wife naturally gained greatly in independence and in influence. She became a partner and not a dependent ; she could claim rights and not merely beg for favours. Of course, the parents on both sides as also the young couple themselves would hope that the husband by his exertions should earn more and more as the years went by. The rising advocate of thirty-five would have a larger income than the promising beginner of twenty-seven ; at forty-five he should, with any luck, be as wealthy as any professional man is ever likely to be. The wife's dowry was not to be based upon such expectations : the calculation depended upon actualities

at the date of marriage. Such, before the War, was the usual custom in the most valuable section of French society, and with more or less alteration in other classes also.

The position has now greatly altered. With the depreciation of the franc and the sequestration of capital and income inflicted by higher taxation, the solid investing classes of France, which include all professional men, all officials, most of the nobility and many steady respectable business people, have found that they have forfeited between four-fifths and five-sixths of their property and estates. They are left with one-fifth or one-sixth of what they had in 1914; and owing to the obscure and complex methods by which the confiscation has been conducted and the proceeds applied in the main for the enrichment of the less decent capitalist classes, they cannot either comprehend or control the ways and purposes by and for which they have been deprived of what they had slowly gathered. One result is that dowries hold a different place nowadays in the classes that really matter. To subsist costs at least five times the number of francs that it did ten years ago. Even supposing a case in which the bride's father is still in a position to put down the same number of francs that he could before the War, he is actually paying over only one-fifth of what he would have done at that time. In other words, even where a considerable dowry in pre-War figures is still available the addition to income produced thereby is nowadays so small as to be almost negligible. The advocate, for instance, whose wife brings him, when he is twenty-seven and already earning a tolerable income, only so many francs as to produce another £80 or £100 a year, is so situated that the small addition hardly counts. He has, therefore, the choice of two things



nowadays, either to marry within his own class where his inclination leads him, without thought of the bride's fortune, or else to marry beneath him in the business class and see that he is well paid for doing so. There are millionaires enough in France, and their number seems to be, if anything, increasing. There is no reason why an ambitious young man of family and education should not seek out, if he is built that way, some rich *industriel's* or *boursier's* daughter and secure thereby a comfortable home, a motor-car and pleasant dinners at those smart restaurants where Americans can afford to eat and drink. But, if his tastes are different and if he prefers an educated companion with good and quiet manners, he may as well neglect the dowry and choose some one whom he really loves and respects and who loves him in turn ; for with any bride of his own class he will inevitably have to face poverty and the discomforts of a poor flat and the hardships of privation.

In the system as it was before the War, one had under exceptionally favourable circumstances most of the conditions which are required by those who consider that love should not be the main or perhaps any motive in determining marriage. It cannot be denied that the essential moderation and narrowness of the French character, its abhorrence of excess and adventure, its acceptance of routine and regularity, all contributed to make the working of the system easy. Further, both husband and wife had been brought up as children in an intensity of home life such as is unknown in England. The ideal of family unity had always been before their eyes. Moreover, every Frenchman had, above all, worshipped his mother and accepted her gentle but undisputed domestic sway in a manner that was a preparation for the half-secluded life that the new couple

were in turn to begin together and whose sheltered light they would again transmit to the children that they brought up with loving care in their own home. Further, the whole upbringing of boy or girl had been in the direction of politeness and consideration for others' feelings, to avoid the rough word or painful criticism, and to achieve a certain easy swing of pleasant social contact. If ever marriage based upon reasoned suitabilities instead of love could be successful in a modern highly civilised community, it must have been in France. It could be tried at any rate in no other country with conditions as favourable.

That it was, as a matter of fact, distinctly successful must, it would seem, be conceded by the impartial observer. But it was successful at a price—and the price must also be computed. It was successful in this sense that the majority of marriages in the respectable classes did certainly produce something like contentment, and that positively unhappy marriages were much less frequent than, for instance, in England or perhaps, if all one hears is true, in either Spain or Italy. In some and even probably in many cases the first contact of the newly married pair led immediately to the blossoming of a very real and a very tender love. In many more cases habit, helped by a social nature, good manners, respect and the sense of common interest, produced amiable companionship, affection, and, as the years went by, a trustful and equal friendship. But it must be confessed that it was accompanied by a good deal of infidelity after marriage and, of course, on the man's side by relations with other women before. As a man seldom married till he was at least twenty-five years old, and probably nearer to thirty, the system could be made workable only by such other relations in the younger

years when he needed some companion. Hence, in France as in other countries, part of the price that had to be paid was the existence of prostitution manufactured on a large scale.

Girls, on the other hand, under that system were married at an earlier age, and until their wedding-day were brought up carefully in a close atmosphere of pretence and concealment into which, if possible, not one ray of reality was allowed to penetrate. The results on their brains and character, would, of course, have been deplorable, if fortunately the natural wit of the French woman and subsequent intercourse with clever men after marriage had not often enabled her to make up for lost time and even more. It was at this price that she could usually be brought chaste—at least in the technical sense—to the wedding-day. Custom and public opinion made a man put up with ignorance and boredom in his wife, if only she had preserved her chastity, and would have obliged him to resent its loss even in the most adorable of brides.

This condition of affairs would have mattered less if the men have never before known other women who, though they had long ago lost their innocence, were able to substitute for it charm and intelligence. Many Frenchmen, however, and certainly most Parisians of the upper class, had already had this good fortune. No society in the world was adorned by so many ladies in whom feminine grace was embellished by wit and tact, by letters and intelligence, nor in any other society were the ordinary social relations of ladies and gentlemen so easy, equal and intimate. But besides the married women of their own class whom Frenchmen met in society, and with whom possibly they might sometimes have warmer and dearer intimacies, there were also in

Paris on the borders of good society, not altogether of it, yet not entirely severed, a large class of women, some of them ladies by birth, others at least by education, all to some extent by their training, some on the stage, others in various professions, many more living by their wits, who, without hope or intention of marriage, offered pleasant, interesting and (it may be added) expensive companionship to the man of the world. Below them again was a whole host of young women of less position and smaller accomplishment, most of them pleasing and many of them kind, gay, well-dressed and fairly intelligent, good and neat housekeepers, who in the circumstances of the country did not expect marriage and yet would willingly make the most fascinating and loyal little mistresses. The views of these young ladies were different indeed from those of the ideal Anglo-Saxon kept mistress, as sketched by Professor Lecky. They took care, to begin with, that their relations were not unnecessarily complicated by the arrival of children. Then they had not the remotest idea of playing second fiddle to the man or waiting humbly on his convenience. Nor had they any notion that they were doing anything whatever to be ashamed of. And certainly they had not the slightest intention of letting themselves be discarded if they could help it, or behaving in what the Victorian would have considered a proper and dutiful spirit. No, if she loved the man, and that often happened, she intended to keep him; and, even if the girl was not in love, she took good care to see that the man danced on her string and not she on his. All the same the mistress would usually acknowledge with regret that her lover must marry some time; he must do so to please his mother; or to add to his income; or in order to be settled and respect-

able ; and she was under no illusion that she herself could be his wife. So she made the best of it, advised him in the matter, often as a matter of fact helped to direct his choice and altogether played the part of a good friend rather than of a mistress.

What, in such a case, was too often the result ? The honeymoon over, when the new husband returned to Paris with his new wife, almost his first visit would be to the old mistress. He would go to her flat, of course, as a friend only with every blameless intention, just to see a good comrade, wish her all luck and have a little talk over old times. And she would receive him on those terms with far too much tact to suggest even a shade of anything beyond. "We are good friends now," she would say, "that is all."

And so they sit down on the accustomed divan and smoke a cigarette or two and have a glass of port and biscuits. She asks him about the honeymoon, how the hotels were, how they enjoyed the lakes, and so on. And he describes one or two amusing incidents and they laugh . . . they laugh and look at each other. She asks tactfully after the little wife . . . "Quite charming, isn't she ? With a little help and advice she will be a great success in time, I'm sure." . . . And then she passes to the theatres, and so to the gossip of what had been their own set.

"Of course you don't know yet about X ? . . . No, of course not. You have been out of everything, haven't you ?"

The hours fly past quickly, and he admits just a moment's little pang of regret as he glances at his wrist-watch and finds he really must run off to the young wife who is already wondering why he is so late for dinner. When he says good-bye his lips linger a trifle longer on

the soft hand than when he entered, and the old knowing smile comes to his eyes, meeting hers as she closes the door. . . . So it goes on . . . just friendship and nothing more. . . . And then one evening, in the taxi coming back, his arm is round her shoulder and her lips are under his again, and he goes home that night no more. The young wife has lost the battle she had not yet learnt to fight.

Even where there had been no such fixed and acknowledged *liaison* before marriage, or where the girl was less clever and ambitious, mere habit was apt to drive the young husband to more exciting amusements. He could not but be aware of the delights that a great capital has to offer, and the very stones of Paris speak of love—or love-affairs. As a Frenchman he had acquired none of the Northern pretence that love is unimportant or unworthy. He had known it for what it is, the one big thing that lifts man above the brute and shows him the reflection of the stars even in the gutter. If the wife he had married for prudential reasons could not learn and teach the practice of love—how could she, poor thing, brought up in ignorance and handed to her husband whom she hardly knew?—if she could not, surely there were others in plenty to offer what was wanted or at the worst to sell a very creditable imitation.

One of the serious drawbacks of the system lay and even now lies in the situation of a girl of gentle breeding whose parents for some reason or other, misfortune perhaps or honourable discharge of public duty, are unable to provide her with a dowry. There are many such girls, accomplished, virtuous, kindly and often beautiful. And it must be remembered that in France, as everywhere else, it is not generally the worthier members of society who are well off. Indeed, to be

rich is not too difficult, if only one cares greatly for money and is sufficiently unscrupulous. But the civil servant, the soldier, the professor, even the lesser nobility — it is they whose daughters suffer ; and yet it is the women of these classes who are best fitted to be delightful wives and worthy mothers. During the eighteenth century girls in such a situation often enough found a not disagreeable refuge in a convent. But in the nineteenth and twentieth centuries on the one hand fashion has changed and few think of a nunnery, unless they are ardent believers, while on the other hand conventual life itself has become more rigid and earnest and less pleasantly social. The nunnery is therefore no longer a practical remedy in most cases. The alternatives that actually exist are of celibacy in poverty and bitterness, with the poor comfort of respectability in some narrow-minded, little coterie which, for all its angular pride, is quite unknown in any world that really counts ; or, on the other side, deliberately to cut the cable, push off from family prejudice and honour, upsail and off, downstream, on the water-way of gaiety, the big shops, the theatre and the *demi-monde*. There at least the girl gets life ; her pulses beat ; her cheeks take on a colour ; and she walks with springy step along the thronged and cheery streets. She is physically fit and in mind she is equal to the best ; she reads and talks and listens ; hears good music ; sees all that is best in picture or play, mixes as an intelligent being with others equally intelligent. And what does she lose ? She is indeed, so they whisper, no longer *comme il faut* ; in other words, the half-dozen nodding old ladies who knew her mother and patronised her at home drop her acquaintance. No longer will she hand tea demurely to the steady young clerk from the Ministry of the Interior who called every Sunday for

half an hour to murmur, “*Oui, mademoiselle,*” or “*Non, mademoiselle,*” or remark that the Avenue de Bois was very crowded yesterday. She, no doubt, loses definitely that chance of a proper, well-regulated, uneventful marriage which should be the goal of a good *jeune fille*. But without a dowry she had never had that chance at any rate. Instead she now has love or something like it, is free and has the shaping of her life in her own hands. As for the other choice—oh, the poor old maid of forty !—when hope is gone and in her heart only tragedy—that mean dull tragedy, unrelieved by the slightest touch of anything noble or even effective, that slowly creeping tragedy of dumb misery and hysteria and despair ! She waits and looks and no one comes, she suffers pains which are almost too much to bear, and in the cold dark hours of the night she sobs alone.

On the other hand, it would be too much, of course, to suppose that a neglected wife should always be content to remain faithful. A Baronne Hulot is an angel who touches the earth one instant with her foot—and in the novel at any rate she loved her husband. But when the wife, too, has chosen her husband because of his suitability only and then finds herself forsaken, it would be foolish or superhuman if she did not seek consolation elsewhere. Wives have done it often enough and they find it readily in a society where men marry late and bachelors abound.

Such, then, are the outlines of the marriage system in the most prominent of those countries in which it is or was as a whole governed by prudential motives. To be just, it must be admitted that the account is very fairly balanced. If there are heavy debits in the ledger there are correspondingly high credits also. In general it must be said that families hang well together, that the



*foyer* is something sacred and permanent, and that positive married unhappiness is on the whole uncommon. Even when there is no fervid attraction at the beginning, there are at any rate as a rule charity and grace to accompany married life in France, and with those may come respect, affection and in many fortunate cases even the supreme gift of love.

In other lands with other beliefs, where individualism is untrammelled and where the daily round of life is less amorous, a union which at its outset does not pretend to be moved by love has little chance indeed of success. Two persons, naturally cold, contemptuous of sexual pleasure and untrained in sensual refinements, joined together without desire in the most intimate of unions by the call of prudent calculation or of interest, could hardly fail to be profoundly unhappy—unless they are satisfied with mere companionship and the sense of mutual duties quietly performed. Even when they are so satisfied—as they often enough are—they are suffering loss to a quite incalculable extent in their own inner selves ; they are missing that broader, greater intellectual and emotional development which is the final object of human life. In addition they are inflicting permanent loss not only on themselves but on the nation and the race through the influence they exert on their neighbours and society, but more especially on the children that they rear and bring up.

Marriage as the form of relationship approved by society should certainly represent the highest type or ideal of sexual union. Now it is clear that the loftiest happiness cannot be found except in a union accompanied by real passionate love. That marriage should be a union of this kind must therefore remain the nobler aspiration. Only in such a marriage can human beings soar to

unscaled heights. The place of this noble ardour and that sublime communion can never be taken by any other love, by any other indulgence in unsanctified and unhonoured pleasures. The risk is no doubt greater and disaster may more easily be encountered; for where there is love there is jealousy, and jealousy may be bitter as death, while indifference at least evades many causes for dispute or misgiving. Prudence may find a safer level, and finding it avoid many perils and some failures. But for those who have the capacity to attempt the altitudes, for those who feel a sublimer inspiration, no other way of mating is conceivable.

## CHAPTER VII

### PROSTITUTION AND THE MARRIAGE SYSTEM

IN order to follow what modern marriage actually implies it is unhappily necessary at this stage to make a digression, painful though it must be, into that which is its obverse or complement. Marriage in the forms in which it is maintained in modern Europe with the late age which inexorable economic conditions have imposed on those about to marry has created as an unavoidable accompaniment and indeed as an integral part of the system that vast expansion of commercialised and organised prostitution which is one of the ugliest, as it is one of the most conspicuous, features of our civilisation. One shrinks from a task so unpleasant ; but the significance of prostitution must be probed if the character of the regulations imposed on sex under a rigid marriage system is to be understood.

There are two broad facts with which any such enquiry must begin.

The first is that prostitution as a recognised and established part of the system in regard to sex of which European marriage is the final cause and culmination, has been justified and advocated by the most venerated of the moralists whose labours have received the approbation of the provident and reputable portion of mankind. That prostitution on an extended and organised scale is not only an inevitable consequence, but is even

a necessary and not undesirable section of a system in which marriage is entered upon prudently late, is confined to one legal partner during life, is next to indissoluble and is devoid both of the excessive delights of passion and of the subtler pleasure of free and liberally educated companionship, has been admitted and proclaimed by those teachers whom general public opinion has honoured among the highest. The doctrine had already been upheld by stern old Cato in the days of the Republic when Rome still was Rome, before the Empire had absorbed softer foreign ideas of enjoyment and artistic life, freedom of thought, feminism and humanity. The uncompromising and unlovely morality of the Republican was rivalled by the virtuous austerity of St. Augustine<sup>1</sup> and the devout perspicuity of St. Thomas Aquinas.<sup>2</sup> The inspired preacher and the lofty professor of revealed faith concurred in proclaiming that prostitution was the price which sinful humanity had to pay for monogamy, and that the purity of the rest of womankind could be preserved for their male possessors only by the degradation of a sufficient number of their sisters.

In the last century the same view that prostitution is and must be a necessary part of the European marriage system was again enunciated with all the gravity of philosophical research and the moral earnestness of a lofty and detached thinker by Schopenhauer in Germany and by Lord Morley in England. The same theory has also been stated and admitted with more imagination and a more human touch by Balzac in his masterly, if ironic, work, *La Physiologie du Mariage*.

Familiar also is the rhetorical and elaborate passage in which Professor Lecky has regarded "the mournful

<sup>1</sup> *Augustine De Ordine*, Book II, chap. 4.

<sup>2</sup> *De Reginine Principum*, Book IV, chap. 14.

figure" of the prostitute, the "supreme type of vice," as "ultimately the most efficient guardian of virtue." "But for her," he says, "the unchallenged purity of countless happy homes would be polluted and not a few who in the pride of their untempted chastity think of her with an immediate shudder would have known the agony of remorse and of despair." Endorsed as it is by such eminent and reasoned opinion and supported by the practice or acquiescence of the solid classes of the community, the proposition must be accepted as incontrovertible that, as long as marriage of the general European type prevails as it now is, prostitution of an extended and systematic kind must be its necessary accompaniment and its corollary.

Marriage has already been defined as a sexual union between man and woman approved by the social group to which they belong. As long as the social groups of English people, for instance, or of French people, approve and confine the name of marriage to sexual unions which are virtually indissoluble, formed at average ages of about twenty-eight for the man and twenty-five for the woman, between persons who are drawn together mainly by considerations other than true and passionate love, and whose education in regard to matters of sex has been not merely defective but also unnatural and distorted, so long must they be taken to will and intend to maintain also the complementary institution of a widely diffused and surreptitious prostitution. It need not, of course, be the case that every single person, man or woman, who upholds marriage as it is and opposes any alteration either in its laws or in its character must clearly and consciously grasp that he or she is in the same breath and at the same moment supporting the continued employment of prostitutes as they now are.

But whether or not they are conscious of it and whether or not they are able to understand the implications clearly, they cannot escape responsibility for a consequence which has been shown to be inevitable and indeed obligatory on authority as lofty as St. Augustine's.

This, then, is one broad fact, namely, that prostitution is an established part of the existent marriage system. The other is that there is hardly a man in the whole of Europe who has not at some time or another had relations with those unfortunate women who are reprobated in public and privately caressed. This is a fact which for some reason or another it is considered decent to ignore; and many doubtless will be indignant that what every man knows and no one repeats should be published on a printed page. But it is difficult to see what is gained by suppressing obvious facts. After all, whether men ought to resort to prostitutes is not the problem. The problem is whether a marriage system which leaves them no other choice and which, in fact, requires that they should do so, as it simultaneously requires that a girl who marries should never have loved before, and which gives neither husband nor wife any relief when they find they have made a mistake, is the best system which mankind can devise at the present stage of social and intellectual development. At least, the facts as they are must be definitely stated if there is to be a clear and conclusive opinion whether or not our marriage system needs improvement. And it certainly is a fact that virtually all men do have recourse to prostitutes. It is difficult to be exact in such a matter, and the years that have succeeded the War by increasing sexual laxity or in other words by favouring departures from the rigid monogamous system, have to some extent lessened the amount of organised prostitution in Western

Europe and North America. But in Europe as it was just before the War, it may be stated with approximate certainty, that 80 per cent of men had had relations with not less than three women of this class in the course of their lives, that not less than 33 per cent had had such relations with at least a score and that in the case of an appreciable percentage such relationships ran into hundreds. These figures may even be below the actual facts. It is at any rate unlikely that they amount to overstatement. The number of men who have never bought the embraces of a public woman is less than insignificant, and it must be confessed with regret that many of the men who compose the small minority, however eminent their attainments may be in other walks of life, such as chess-playing or mathematics, would hardly be able to aspire to success in the not less difficult and perhaps not less important functions of lover or husband.

It is, however, desirable before proceeding further with the discussion, to arrive at a definition of what is meant by the name of prostitution. Precision of statement is necessary if accurate conclusions are to be drawn. The word has so often been used in a rhetorical fashion, that its correct must be distinguished from its exaggerated or merely abusive functions. On the one hand, to speak of a woman who in her life has chosen many lovers for her own pleasure as a prostitute, or on the other to cry out that a woman who has married a man whom she does not like for his money is living in legalised prostitution, may gratify moral indignation or achieve a certain sonorous gravity; but it is neither true nor sensible. A woman who gives herself to all and sundry for the fun of it, a woman who enters on matrimony shrewdly as on a business under a profitable contract may be many

things—but a prostitute she is not. Various definitions have been tried. But one comes back always to that which was drawn up by the trained mind of Ulpian. It may therefore be laid down that a prostitute is a woman who professionally abandons her body for hire to any man without choice. That there is payment, that there is absence of choice, and that the transactions are in the nature of professional acts, these are attributes which are of the essence of the thing. An immediate advantage of this definition is that within the complex life of modern metropolitan communities it serves at once to distinguish true prostitution from other forms of illicit sexual connection.

Following this definition, other large and elusive classes of women who fill important parts in the sexual drama of modern life can at once be excluded from the ranks of real prostitution. There is, for instance, the shifting brigade of girls, numerically important but otherwise less significant, who support themselves at a rather low level of comfort by other trades as servants, waitresses, shop-girls and the like, but add both to their incomes and their pleasures by occasional intermittent affairs with men whom to some extent they select, but from whom they extract definite payments in return. There is also the chosen and limited class of *demi-mondaine* in the correct sense of the word—women, that is, who belong to what is half-way to good society, women who know men of the highest class, and in some cases are also received by ladies of the highest rank, though it may be casually and intermittently. The *demi-monde* shades off imperceptibly at both ends into other circles—at the top through the lady who is a trifle *déclassée* and lives above her real income into genuine aristocratic society; and at the bottom through the



woman who fails to develop the necessary talents and qualities into the ugly reaches of true prostitution. In the bulk the *demi-mondaines* form a class apart. In essence their profession also is to earn their livelihood (and it is an extravagant and luxurious livelihood) by abandoning their persons to men with the necessary funds and generosity; but their attachments are quasi-permanent in time and limited in number, and their allurements are social and intellectual at least as much as they are physical. Their relations to society and their functions for civilisation are materially different from those of a mere prostitute.

The special importance of prostitution in relation to modern marriage is caused directly and indirectly by the growth and extension of what is generally known as the capitalist system. In Europe until it was dominated by this economic system and in other parts of the world in which it has not yet triumphed, it was or is possible for men and women to marry early in life, soon after the age at which the passions wake and require satisfaction. The late age of marriage in modern times is precisely the great stumbling block. Already before the War the ages at which men and women married had been growing steadily later. Precept had for fifty years been reinforcing a practice which economic considerations made inevitable. Among the peoples of Europe as a whole the percentage of celibacy was steadily on the increase and the age of marriage kept going up. As early as 1895 statistics showed that one-third of the male and female population of Europe above the age of fifteen was unmarried. Later figures are still more satisfactory to those who advocate prudence and still more depressing to those who believe in wholesome living. Thus in England and Wales by 1906 the average

age of marrying was 28·6 for men and 26·4 for women, while in the same year only 43 per 1000 husbands and 146 per 1000 wives were under twenty-one. Even in New Zealand and Australia the ages of first marriage are now about 28½ for men and 25½ for women. In Australia there are more men between the ages of 25 and 29 who have never married than there are married, while more than one-third of all the women between those ages have never been married. A state of things has indeed occurred among the middle classes in England and the British colonies and also in France which corresponds to the considerations urged by Professor Lecky. That working men and women still to a large extent follow their inclinations and the dictates of nature and marry when they feel the need is one of the most frequent reproaches made by the thriftier classes. Indeed, one of the entertainments of the commercial rich before the War was to discuss over their dinner tables possible means for taking away from the poor this one of the few pleasures that were still left them in modern life.

Now it is clear that the overwhelming majority of men and a considerable proportion of women will not be able or will not consent to pass the best years of youthful life without some form of sex-indulgence. The increasingly late age of marriage therefore led among other things to an increasing demand for prostitutes. The supply was easily procured in the new conditions introduced by industrialism.

In the past there had been no such vast and painful contrasts in wealth and standard of comfort. There was not, therefore, on the one hand so great a demand for nor on the other hand so ready a supply of women prepared to prostitute themselves. Moreover, the methods of capitalised industry had not been applied

to the production and marketing of such women. It is true that regular and organised prostitution had appeared in the past also, whenever rigid chastity was exacted from the respectable woman and monogamy made the rule of law. Thus, for instance, the first brothel approximating to the modern type and conception was established by Solon, the Athenian legislator, with the avowed purpose of enforcing a rigid matrimonial code and preserving the chastity of married women. Solon had based the franchises and the constitution of Athens upon a classification of the citizens according to their wealth. This classification and the wealth on which it rested would naturally gain in stability if they were transmitted from father to son. But they could be inherited in a true sense only if the father of the family could depend upon the chastity of his spouse. No doubt the same reasoning appealed to Solon which subsequently did to Doctor Johnson. The latter, as is well known, postulated that the utmost importance must attach to the chastity of women as all property depends on it, and therefore argued that the woman who once forfeited it should not have any possibility of being restored to good character.<sup>1</sup> Previous to Solon's law it appears that such prostitution as had occurred had either been sporadic and capricious, or been devoted to the duties of ritual or religion as it still is in certain parts of India. To Solon belongs the unenviable distinction of converting it into something regulated, commercial and mechanic. While he degraded the character of the prostitute and deprived her of the flattering gleams of hope, he at the same time insisted upon the supply being definitely maintained. It was his deliberate design to immolate some part of womanhood for the

<sup>1</sup> *Boswell's Life*, 1888 ed., Vol. II, p. 86.

protection of the owners of the rest. It is not altogether fanciful to observe that the exploitation of white slaves was initiated when for the first time the means of production were seized and held by a limited and wealthy class.

The Roman Republic naturally took over and enlarged the institution of the brothel when it assimilated capitalist commerce and banking and the capitalist code of morals : and under it prostitution appears to have reached the widest limits which were possible before the date of power-driven machinery. During the Empire, of course, prostitution continued to exist and was carried to the level of a fine art. But in the general relaxation of sexual morals it lost much of its degradation. It ceased to be a pivotal industry and became a mere luxury trade. The prostitute of the Empire depended for her earnings in great part upon that floating population of visitors and travellers which habitually thronged the courts and the metropolis. For the balance she depended upon her friendships with wealthy men who became half lovers half companions. But with the rise of Christianity it again became increasingly the practice to enforce chastity and rigid monogamy on respectable women ; and the brothel accordingly became once more a regular institution. In the Middle Ages, however, the general grossness allowed room for laxity enough ; prostitution did not suffer too great a degradation ; nor was the prostitute necessarily condemned to be a prisoner or slave for all her life. It must also be remembered that the Catholic Church in general showed itself reasonably indulgent. The Church adopted the teaching of St. Augustine and of Aquinas that prostitution was a necessary evil or a necessary remedy ; and with that broad humanity which it had always cherished when it was true to itself never ceased to hold out consolation

and aspiration to the sinner. In its eyes carnal indulgence was in any case a derogation and fornication emphatically a sin ; but Christianity had been based on love by the Redeemer, and the weakness of the flesh excluded no believer from hopes of absolution and salvation upon repentance. All women were sisters in Christ and the Church which accepted the fact of prostitution accepted also that other far greater fact that the prostitute was a woman who needed to be comforted and a soul that required consolation and encouragement. On the other hand, though the Church could be indulgent to the woman who sold herself, it had no hypocritical tenderness for the business men who profited by her exploitation. Catholic practice indeed has not in general shown that respect for wealth in itself, which is such an admirable feature of the Protestant Churches and which makes any of the latter a comfortable spiritual home for the successful manufacturer or company promoter. Hence while it pardoned the repentant prostitute, it refused to excuse the procurer and the pimp.

Protestant teaching in this matter has not escaped the inconsistency with which it has been reproached on many questions of applied morals. On the whole the Protestant view as expressed in public is that, as fornication is wrong, therefore prostitution should be repressed, and that the prostitute herself must be a wilfully sinful and degraded creature. At the same time Protestant moralists have rather unfairly sought to evade the accompanying fact that the system of monogamy cannot exist without the alternatives either of prostitution or else of moral laxity in women of all classes. Nor have they acknowledged that it is hardly just on one side to enforce a social system which compels a certain number of women to be recruited for the purpose and

then on the other, when they have been forced to the trade, to stigmatise them as degraded by their employment. Mandeville indeed in his *Fable of the Bees* did make this point clearly ; but Mandeville was anything rather than a typical Protestant and his book was suppressed. The matter has gained in importance as, in the period during which Protestant opinion was in the ascendant, the boundaries of these questions were enlarged by the growth of that manufacturing and colonial system which more than anything else has altered their significance.

The effects of the new capitalist system made themselves felt gravely enough in the eighteenth century both in London and in Paris. Elements of degradation and of callous brutality were imported into prostitution, while on the other hand the fraudulent seduction or forcible kidnapping of girls for the trade, often with the protection or the connivance of the police, became a regular industry. It was left, however, to the Emperor Napoleon with his acute grasp of administrative realism to recognise the actualities of the situation and to provide for the requirements of the new era by instituting the modern *maison de tolérance*. These State-controlled and State-protected brothels have from that date until very recently been the typical centres and emporia of prostitution not only in Europe but also in most of the American countries. Great Britain was almost alone in refusing to introduce this institution in its extreme form, although for a period it was surreptitiously allowed to exist in an unofficial manner in England and officially enforced with vigour in certain of the dominions. During the last twenty years, however, with the revolt against the unchecked power of money, and the refusal to sacrifice every decency to its exigencies,

the system initiated by Napoleon has in several countries been abolished and measures concerted to proscribe the activities of the international recruiters for the trade. The League of Nations, one is glad to know, has included this subject among its activities and has recently published a full and admirable report. In the United States, where the brothel system had been one of the two vilest in the world and where it was accompanied on the one hand by police and judicial corruption to an unprecedented degree and on the other by circumstances of brutality and hopelessness of an incredible and indescribable nature, it has now been everywhere suppressed except perhaps in some backwoods state or other like Oklahoma. In the Latin countries, however, the State recognition and regulation of brothels is still maintained, and the State cannot therefore evade the responsibility for abetting the criminal activities of the recruiter and the kidnapper. Even in France, in some ways still the leader of European thought, the system is preserved in spite of the protests of eminent public men and of the fact that every student knows it to be inefficacious as a remedy and harmful as a social practice.

Unhappily, however, even in those countries where the State-tolerated brothel has been done away with, the type of prostitution that it represents is the one that still prevails, wherever monogamy and capitalism with the consequent prudent objections to early marriage exist side by side. For the moment it must in fairness be stated that the United States of America on the whole, in spite of certain rather lurid instances to the contrary, form a splendid exception to this rule. But their case is capable of explanation in accordance with the rule itself. For, on the one hand, in the United States the very high level of apparent wages and the fair level of

real wages together with the absence of unemployment make early marriage possible<sup>1</sup>; on the other hand in most of the states there are many reliefs by way of divorce to the strictness of monogamy. Moreover, the unprecedented freedom that quite respectable girls enjoy before they are married helps largely to make the absence of prostitutes more endurable. In the Scandinavian countries also prostitution may for all practical purposes be said not to exist or at any rate not in the form which has been found to be typical of modern life. The excessive sexual frigidity of the inhabitants, especially in Sweden and Norway, in part explains the fact; but a further explanation lies in the freedom of divorce given by their marriage laws and the pre-nuptial liberty accorded to girls in those countries. With these exceptions it is a fair statement that in Europe and in the countries which take their culture or their economics, or both, from Europe, the complement of our marriage system is an enormous trade in prostitutes, most of them gravitating to brothels usually controlled by the State, but some working also independently of those large warehouses of prostitution, just as the small shopkeeper still contrives to exist outside of the great department store.

It may be noted here that the rhetorical expression usually employed regarding women of this class by which they are said to sell themselves is hardly correct. What they really do is to demand a fee for a service like that demanded by a professional man for his services. It is true that the prostitute's fee is often very low; but then the service she gives is not worth much and may frequently entail other expenses afterwards. What is certain is that in whatever way she conducts her trade

<sup>1</sup> Written before the economic collapse which began in 1930.



she is subject to exploitation. The exploitation is most nakedly displayed in the brothel. Outside she is exploited partly by way of hidden tribute like those payments which she is required to make to police officers; partly by the artificially enhanced rents she has to pay for her apartments and the extravagant prices that are charged by the milliners and restaurants which cater for her class and their companions. In the brothel, though shamefully exploited, she is at least sure of food and clothing, is in a sense protected and cared for, and has comrades and company. She is more frankly a slave or at any rate a serf, once she is an inmate, and her condition depends like that of any other slave on the treatment she gets from her master and on the legal and administrative safeguards against gross ill-treatment. In the brothels of the United States, while they existed, the exploitation was brutal and intemperate; and of protection from either law or executive there was no trace. The girl—very often an unwilling victim captured by the dealers with violence or drugged and carried off—was exposed sometimes to as many as a score of customers in twenty-four hours; was beaten and tortured if she refused; was thrown out into the gutter when she was tainted beyond redemption; and was never expected to last for more than five or six years. By that time the traders reckoned that they had had as much out of her as she was worth, and her subsequent earnings would no longer repay her keep. They calculated, therefore, that it paid best to work her as hard as possible for that period and then the quicker she died the better. There was no other way out than the hospital, the river, or the grave; for the police would club her back if she ran away and American society at every level closed its doors to the woman who had once

been what they ludicrously called "sporty." In France, on the other hand, it must be admitted that its *maisons Tellier* are fairly humanely conducted, and that the police do their utmost both to prevent girls from entering and to protect them when they are inside. Moreover, public opinion is not so rigidly adverse from re-admitting a woman of this class to the amenities of decent living when she has manifested her will for amendment. Instances are by no means rare in which the inmate of a brothel or the unfortunate *fille en carte* escapes from her bondage or her shame by a marriage with a respectable man of the working or lower-middle classes. But whatever the alleviations may be in countries where faith does not exclude love and charity, and where the needs of human passion are recognised with mingled indulgence and perspicuity, it is true none the less, that the situation of the registered prostitute, whether she be allowed the semblance of individual trading under municipal license or be without concealment attached to an establishment of this nature, is such as to be repugnant to humanity. It is not merely the suffering caused to the individual which has to be deplored; the infection must inflame the surrounding regions of social existence, and the presence of such chronic disorder lead without fail to the corruption of the public conscience.

What the numbers of women are that are employed in the lower and regular grades of prostitution, it is impossible to say. Figures have been collected for various cities which are more or less reliable, as the definition has been less or more strictly interpreted. But for the whole of Europe no statistics are forthcoming, much less for all those countries of the world which are affected by the European capitalist system. That in Europe alone the total is one of millions, is however

clear. As a German writer has said, "Venal women everywhere appear as soon as the free sexual intercourse of young people is repressed without the necessary consequences being impeded by unusually early marriages." These are the conditions that nowadays prevail in most European countries owing to the united influences of rigid matrimony, middle-class education and economic stringency.

What is often ignored is the fact that the relative variations in the amount of prostitution are subject to a scientific law as ascertainable and accurate as any other in sociology or political economy. This law may be simply and exactly stated as this, that "prostitution varies inversely with sexual laxity." In other words, where the relations between the sexes are so regulated that girls are allowed a good deal of liberty without irremediable loss or social disgrace, or where marriage is not too strait and oppressive a bond, prostitution is reduced to a minimum and is purged of its most odious features. But with any added restriction upon freedom in the relations between men and women and especially in the intercourse of the young of both sexes the ratio of prostitution increases, while its horrors are aggravated. In the kind of matrimony which one has seen advocated by austere moralists and recommended by the reasonings of prudence and worldly success, the net is dragged furthest and deepest through these pools where the human catch abounds for those markets where the procurer sells to the city population. "The history and development of prostitution enables us to see that it is not an accident of our marriage system but an essential constituent which appears concurrently with its other essential constituents."<sup>1</sup>

<sup>1</sup> Havelock Ellis. *Little Essays of Love and Virtue*, p. 257.

In this type of commercialised prostitution which is distinctive of the modern world, though it is not difficult to visualise the situation in the mass, yet it is not always easy to understand the motives which impel the individual man to seek such sordid caresses. That which the professional of the street in general has to offer to her chance customer or client is not particularly attractive—cheap finery, a shabby lodging-house, a tawdry bedroom, repellent bargaining beforehand, a hurried dismissal afterwards, some talk, either dull or vulgar and always uninstructed, and a person which is, so to speak, shop-soiled and in any case almost certainly irresponsible. Indeed, that there is a market at all for goods of such poor quality and such a rush of customers to its bargain-counters, proves more than aught else how great the need is, how predominant the desire for anything which can imitate, in however poor a material, that passion, fire and flame, that craving of all creation for love, of which in this driven round of work and ever more work poor humanity is kept deprived. Tired eyes stare through open windows at the lights and laughter and wine, while tired feet plod on in the rain towards the dark tenements of despair. Little wonder if they turn off at a corner for a few painted minutes with another derelict of the streets.

But unattractive though such an encounter of the night must be, what can be said of those who are found within the plush prison of the house of ill-fame? Poor fattened slaves penned all day within their stalls, what can they give? What have they to offer? Nevertheless men frequent these places who might be thought to have every motive to the contrary. In those cities, for instance, at the side of Eastern oceans where the commercial staffs of an empire congregate, there are houses kept for their convenience into which white girls from

Europe are suborned and imported. In Bombay, within a few yards of the main man's club—easy walking distance even in the Indian heat—there are or were three or four such houses each with their half-dozen of pallid, perspiring women. These had come from half a dozen centres of the trade in Europe, some drifting here to these last sand-banks to sink a little lower and break up, others freshly caught—by God knows what promises of hope and wealth!—all bloodless, fever-poisoned, istless. During the slow, hot afternoons they lolled about in their rooms, without a thought except perhaps a vague regret or a muttered grumble about the sweat that dripped or the itch of prickly heat. But with the coming of dusk, when the wood smoke rises sharply from the bazaar and the coal haze drifts from the mills upon the oily, noisy streets, they began to stir themselves for the business of the night. After ten o'clock they were busy enough; there was a constant coming and going of motors, taxis, victorias and even men in evening dress on foot. Some came only to see “life”—“life” with a tinkling piano and a stupid strumpet; others wanted drink; others—“needs must when the devil drives” is an old saying! At least there was no pretence—it was all bare squalid ugliness throughout.

Further down, below this sordid purgatory, was the unplumbed, unfathomed hell of the Indian brothels in the neighbouring lanes—pestiferous chambers where girl-slaves lay in little cages under the lash of Pathan brutes from across the frontier, open to every grimy mill-hand who cared to pay his sixpence or his shilling. Where they were caught, none cared; how they came hither, no one knew; when they died, no one troubled; they were there, that was all, to be used; and the men and women who lived on their earnings beat them with

sticks and burned them with hot irons and put the point of their knives into the soft places of their flesh when they were tired or reluctant or ashamed. Some had been orphans perhaps and had been sold ; or others procured by promises of marriage ; and many had been simply kidnapped. Girls disappeared in all classes ; but it was easier and safer to carry them away if they were poor or neglected. That these incredible infernos were so long tolerated, each year in a more aggravated form, is a reflection serious enough on public opinion and on the Government. But the reason was simply the general acquiescence of a wealthy and commercially trained people in two somewhat inconsistent opinions, first, that prostitution is a requirement of an industrial and monogamous community and, secondly, that those who supply what is needed are shameful and degraded. Recent legislation by the local government of Bombay has at last put something on paper which if it is followed by vigorous executive action may partly mend these conditions. It would have done more if completer legislation had not been impeded by a technical difficulty which ought not to have existed.

## CHAPTER VIII

### CULTURAL VALUES OF PROSTITUTION AND GALLANTRY

**T**HAT the vast extension of prostitution in its typical modern form is a consequence of the marriage system in its present economic environment has now become manifest. It would, however, be unobservant and unjust to ascribe all its developments to this cause without further enquiry. However unpalatable it may be, it has to be admitted that certain demands for gratification which can usually be supplied only by a class of women trained for that purpose arise from desires that are inherent in human nature. Not less primitive is the impulse in certain women to increase their luxury and sometimes their opportunities by exchanging the delights of their person for the satisfactions of wealth or power. There has probably been no period of human life upon the globe, however remote, when men did not offer and women did not accept presents of what to them represented riches or at least pleasure and adornment in consideration of enjoyments that they shared. One may be sure that the artist races of the Stone Age, the men who painted frescoes of their hunting on the walls of their caves and carved on ivory the figures of the mammoth and the bison, did not learn their artistry for nothing, and that the works of their skilled hands were frequently the prizes and

temptations which accompanied their amours. The impulse to give is implanted in the male by the laws of his own nature ; and the acceptance of a gift by the woman he loves is not necessarily a sign of servitude or enforced inferiority. She takes what he gives as being her due and estimates her value in his eyes by his generosity or profusion.

On the contrary, those were periods of debasement for women when no such value was set upon their favours, and a wife was regarded as a belonging or chattel to do work in house or field with the added burden of supporting her owner's or husband's desires at his command. Even at the present day the man who really lowers womanhood is not he who spends money on jewels or dresses or cars or perhaps only flowers or a dinner and dance for girls in whose company he seeks the delights of life or at any rate the pastimes of his lighter hours and merriment. The man who does so is he who expects as of right that the woman who has the misfortune to be his wife should sew for him, cook for him, manage a home for him and have children by him, all without reward because she is his wife ; and not only this, but should also submit to his caresses as much without preparation as without enjoyment whenever he is pleased to allay what in him is no more than an appetite.

But the fact is that men are a race of incorrigible dreamers. It is only the unintelligent who are content to take things as they come. The imagination plays on every object and remoulds it at the very moment of perception. Even the least intelligent of men must form in his mind some picture of the world as he sees it, though his picture is by comparison plain, limited and monotonous. As the intelligence is sharpened, so also does



the imagination become more agile and the objects of sense are purified and ennobled, clothed and embellished. Somewhere in every heart is a Don Quixote who sees visions and who, riding forth on the grand adventure, finds somewhere his Toboso. Hence it is that the men who create things and are worth something to the race have never been content with the mere animal satisfactions of daily life. If not always, then at least in their moods of elevation and excitement they have sought pleasures more rare and companions more entrancing. Before their eyes danced often enough the fantasy of some wonderful quest for some impossible golden girl and, when they tried, as try they must, to set forth upon their search, it was the simplest thing that they should spill their pearls at the feet of the first priestess they met in silken robes and yellow tresses who offered them an illusion of the delectable city. Primarily, the allurements of the strange woman with whom men speak in the market-place and who dwells upon the city walls were woven from a certain idealism. She it was who lifted her lover of the day above the prose and routine of his life to a momentary glimpse of something rarer, finer, more poetic. She seemed for an hour or two to procure him something he had always sought, almost without knowing it, deep in the innermost recesses of his heart, a pleasure more divine, a radiance that was not of the earth, a vision that was an impalpable aspiration. It was a comedy that she played to him upon a stage already set to please, with the symbolism and convention of a dramatic art. And like one who for three hours looks upon players in a drama and sees them transfigured from their daily humanity into personifications of gallantry or beauty, so also in the caresses of her who dedicated herself to

these offices, he saw transfigured far beyond the commonplace of the household which he knew, a being wholly compact of love's delights, composed, for the time that he held her in his arms, of every sensual delectation.

There is thus an analogy between the part played on her smaller stage by the courtesan and the rôle enacted in a theatre by actor or actress. This is a fact which to some extent accounts for the estimate of the actress's character formed throughout the ages by the common sense of nations. That fact is that a certain prestige attaches from the very start to the *demi-mondaine* merely because she is strange and different. The prestige is heightened by the very fact that common report assures the visitor of her malignant powers. How great must be the allurements when the mysterious wickedness belongs to a lovely form and is clothed in lascivious beauty. *Omne ignotum pro magnifico* is a saying that is always valid. The ground is prepared for the courtesan's triumph before she even enters the arena.

The actress owes her admirers largely to the prestige of the stage, to the factitious brilliance thrown from the glaring ramp. She is woman seen as in an ideal vision, and she profits naturally enough—why should she not?—from this illusion. On the stage a pretty woman starts with an advantage denied by ordinary life to the most beautiful and intellectual of her sex. The best-loved women have very generally been actresses; and the *coulisses* have usually had their private entrance to the groves of Paphos. There is no absolute reason why an actress should not be a faithful wife and a true mother; why she should not cook a dinner or darn socks in the intervals of studying a rôle or learning a new couplet. In recent years indeed there has been a fashion to parade

the domesticities in stage circles ; and dogs, children and a suburban villa are the constant accompaniments of a virtuous fame. And yet it must be admitted that there is something a shade ridiculous in the combination, and that the beefsteaks and suet puddings of respectability look just a trifle out of place beside the footlights. On the whole the permanent judgment of mankind is more likely to prove correct than the passing sentiment of a day. In France and those southern countries where the relations of men and women are viewed in a simpler and perhaps a cruder light, there has, of course, never been any doubt about the subject ; and an actress, whatever homage she may command for her talents or her other qualities, is quite definitely regarded as a woman who for good or evil is outside the pale of the domestic virtues and beyond the usual scale of blame or praise. She may rank higher or rank lower, be worse or better than the ordinary *jeune fille* or the ordinary married woman. How she is placed will depend on the point of view of the appraiser, whether he counts brains as worth more than a quiet submission or the preservation of social custom as more important than artistic achievement. But, whichever view be held, she will at least be placed definitely apart from those others and will quite unmistakably be put into a different class, to which loving and being loved belong.

Between the actress in such countries now or in the general history of mankind and the *demi-mondaine* properly so called the line is narrow and the limit easily crossed. The *demi-mondaine* usually nourishes an ambition to go on the stage, and is sometimes an actress who has failed. The actress is often enough a *demi-mondaine* who has got on, and not infrequently she depends on her male friends' assistance when she has

no employment. The one plays her part intensely for a few hours each day upon the public stage: the other never quite ceases to act at any time. The *demi-mondaine* is never altogether natural: but neither is she unnatural, for she adopts her part so early that it fits her like a second nature. One who has never known a *demi-mondaine* in the true sense of the word can hardly appreciate either the sway exercised by such women over their admirers or their import and significance throughout the social history of mankind. There is a cultural value in gallantry of this kind and an historical justification which can be understood only by considering the place which is filled to-day or—should one say?—was filled in the yesterdays before the War by the *demi-mondaine* of modern Europe.

Take the *demi-mondaine* as she is at her best—in Paris say, before that catastrophe which impoverished such men of the upper classes as it did not kill and overturned the values of life and income. Charm was of her very essence, and her whole being was modulated to a careful synthesis of speech and gesture, of look and smile, in which even the slightest movement went to compose a pretty picture of elegance and grace. She was a good companion first and foremost, a pleasant and easy *camarade*. Now usually in his relations with the other sex a man has to sacrifice either *camaraderie* or femininity. The girl who is a good comrade, a “real pal” as the slang phrase has it, is one, as a rule, of whom he hardly thinks as a woman. On the other hand, with a married woman in society who is really feminine a man seldom finds himself on such familiar terms, on such a footing of cheery equality. With the *demi-mondaine*, on the other hand, he starts off at once at an easy intimacy. They may not play games together:

but they play at least one great game, the game of life, on the same ground and in much the same way. She gives him something which she knows he wants: and he knows quite well that she needs what he gives her. They respect each other all the better for it and remain the better friends, as a man respects and is the best of friends with his doctor or his lawyer. It is a mistake to think that paying for services lowers one's opinion of the person who performs them. On the contrary, work done for nothing is never valued, usually indeed is not worth much. Even free education, it is notorious, is much less valued than the schooling parents have to pay for; and it is still more certain that the musician who plays for nothing at a concert or the speaker who lectures free of charge is at once marked down as second-rate. So, too, in the affairs of love. It does no harm for a man to know that it is a luxury for which he has to pay, and pay expensively. When payment disgusts him, it is not so much because it is a money transaction direct and undisguised, as because the sum is small. A man despises the unfortunate girl who takes a five-pound note, but he thinks a lot of a woman if he has to buy her a diamond pendant before he enters her dressing-room or obtains the privilege of buttoning her shoe. It is unfortunately only too often one of the main reasons why a man is apt to undervalue his wife, that she not only works for her keep but further lets him embrace her without special return as a mere matter of routine.

The *demi-mondaine* never makes this mistake. She is perfectly frank in letting her friend know that he has to support her and she is not in the least bit bashful when she needs new dresses or wants another fur coat. But she takes it for granted that he will buy her what she asks and she never haggles or bargains. All has the air

of being above-board, as between two good comrades. It is just a clear, cool statement that these are things she cannot do without and, if he cannot supply them as wanted, he must just do without her. But she gives him a lot in return, it must be remembered. The man who is her lover knows that there is at least one apartment where he will always find a friend, a charming woman ready to listen to him and cheer him up when he is bored or depressed. Partly it is that she really does understand his moods and his pursuits and sympathises with them naturally; and partly it is that, bred as she is among men and finding in them her professional material, she has trained herself to just that kind of response which most appeals to her companions. And then, of course, the *demi-mondaine* eliminates from her life, and especially from that part of it which she displays to her acquaintances, all reference to the usual worries of a household. She brings no common cares to her friend: they have not even a joint income on which to scheme and plan. It is true that he makes payments to her on which she lives: but, once handed over, the money is her own and she owes him no account of its spending. Nor does he share a house with her. He sees her even in the flat he has hired and furnished for her as a welcome guest upon a visit, and it is open to her, after all, to say she has a headache or to shut her bedroom door. He has, in fact, all the pleasures of intimacy with none of its *ennuis*. She shows herself at her best only, and is elaborate even in *déshabillé*. She is spared the annoyance of being seen, as even the most tactful of wives cannot avoid, when she is ill or cross or bothered.

In all this delightful comedy of manners, it must be remembered, the man also fills a part by playing up to the star lady, and there he acts diligently and as eagerly as

she does. He seeks in her an ideal—does he not?—of woman as she might be formed supra-mundanelly for a silken-ribboned paradise of gallantry; and he must see himself also in the same setting as a lover should be, polite and gracious, in the pose and posture of bravery and wit. She is for those moods like a costly and exquisite mirror in which he gazes at his own image retouched as he would like to be, if life were all the time an eighteenth-century *fête champêtre* and the years were always young. Incidentally, one of the most charming traits of the *demi-mondaine* is her avowed preference for men over forty. Other women are sometimes tactless enough to admit that they like to see younger men, that they appreciate a clear skin and supple muscles and all the joyful follies and eagerness of youth. It is merely unfortunate that young men so seldom have enough money, and that with what they have they are often selfish. But the *demi-mondaine*, it would appear, is better able than her less professional sister to judge what is really worth having. For her the ideal age of a man, though it tends to vary with the age of the person she is speaking to, is as a rule between forty-five and fifty-five. A man of that age, she will declare, is a perfect companion for a woman. He knows just how to treat her, appreciates her qualities, has none of the stupid jealousies of youth, is gallant without being cumbersome and discreet without ceasing to be protective. Enthusiasms are tiring and exigencies may be excessive. For an intelligent woman a middle-aged man is a perfect lover. It is character and talent and success in life, after all, which appeal to a woman of the world and not merely physical presence. But even on the side of physique a man of fifty who has lived sensibly and is well preserved is a match for any boy. It is rather distinguished to be bald-headed. A trifle of

corpulence at the waist looks imposing, an eye-glass gives an air of smartness to a man—in fact, for real distinction nothing can be better than this age. Yes, delicate appreciation is certainly one of the *demi-mondaine's* most attractive qualities—and it is not one by which she loses. Illusions are expensive things to pay for. But then who does not think they are worth buying? At any rate, one thing is certain; there are men who wear flannel pyjamas when they sleep beside their wives: no man ever wore anything but silk in the lighter lady's bedroom.

Truly in such relations there is something of play-acting on both sides, as perhaps there is always in every relation in life—yes, even in the most intimate of all, the communing of a man with his own soul. But the play is better staged with the expensive courtesan than it can be in ordinary domestic life, and the *décor* is more harmoniously suited to the plot. In household life there is a mixture of tones and styles, of realism beside the romantic, of grey routine with a few purple splashes of dissipation. But the *demi-mondaine* shows herself to her friends in no other wise than in tone with the whole composition. She uses cosmetics, for instance, boldly for display and accentuates her tints or underlines the amorous weariness of her eyes. They fit into the living tableau that she represents. She is an artist, of course, in physical sensation; that she has to be; and she provides a certainty not only of fine linen, soft silks and pretty laces, but also of absolute and scrupulous cleanliness. For the *demi-mondaine* if she does nothing else, has at least always stood against any neglect and slovenliness and for something higher in the way of physical culture. She does keep her person thoroughly clean; she makes use of every necessary adjunct of the



*toilette* : she never comes to a man except cleansed and refreshed ; and she retires to her own separate dressing-room whenever she requires. But not only is she clean herself ; she insists on equal cleanliness and equal privacy and propriety in her partner.

The *demi-mondaine*, in fact, in modern Europe as in the immemorial East is something of a teacher, and her house a school for manners. She exacts well-defined courtesy from her admirers and usually maintains a high standard herself. She seldom allows familiarity to glide into disrespect or negligent behaviour. As the man can never take her for granted and knows that there are scores of others eager to fill his place, and as his and her only bond is that of liking or, at any rate, of that mutual convenience and comfort which passes for liking, he is mightily careful never to give offence or forfeit her companionship. This certainly is one of the main benefits of the courtesan to society. She preserves a standard of conduct between men and women which the wife alone, under a system of marriage which makes her dependent in every way upon her husband, cannot enforce and often cannot even attempt to ask. And yet she combines this with free and unembarrassed *camaraderie*. One need not speak of European society only, and its veiled complexities. The position of the geisha in Japan, both as entertainers and as living models of social courtesy, has become world-famed. Not less distinguished was the place held in Hindu literature and, until her recent suppression by mass-prostitution of the European capitalist type, in Hindu life also, by the *gunika*, or *vaisya*, the courtesan who combines the practice of music and dancing with the arts of venal love. She is a standard figure of Indian romance and her qualities are extolled by the poets. Young princes used to be sent

to her as part of their education, and she figured in the palace ceremonies. She had her virtues as she had her failings; and not a few of the public benefactions of ancient India and the monuments of her architecture take their origin in the munificence of a courtesan.

Not the least of the advantages of the *demi-mondaine* is gained through the subtle and pervasive appeal which her company makes to that vanity which is one of the permanent and peculiar attributes of man. The beauty of the courtesan's face and figure is frequently anything but distinguished. It happens sometimes that her expression is hard, her bearing wanting in dignity, and her address in benevolence and sympathy. She has often enough an intelligence less disciplined and an understanding less able and less profound and even an experience less broad and worse assimilated than are found in women better born, who have been educated to the usages of courts in those social circles which guide the political and mental development of nations. But the beauty of the courtesan is adorned by artifice; her presence shines in its setting; her intelligence is cut in glittering facets; all her acts and all her moods are illumined by the flash-lights of eroticism. The niceties of costume are her constant study, and she spares neither time nor expense to dress herself with an elegance that even anticipates the fashions. Sometimes she exceeds the limits of proper taste and adopts extravagancies designed to advertise her attraction or her morals. She will carry a parrot on her shoulder along the Promenade des Anglais, or drag a monkey on a leash by the Sentier des Acacias. The inclination to such exaggerations was no doubt present in former ages also, but it has become accentuated at the present day. For in this generation the admirers of such women are more and

more largely found among men who have risen from nothing to sudden wealth and who affect the airs of gentlemen on the fortunes they have made on the Stock Exchange, as directors of a Plage or a Casino, or even as ladies' dressmakers. In general, however, it must be admitted that the courtesan is so turned out that her companion can be nothing except flattered by the remark that she excites. There are few men among those who are known as "men about town" who can resist the seduction of appearing in public as the accepted friend or lover of a woman at whom every one turns to stare, whose name furnishes matter for a dozen paragraphs in the paper and whose photograph appears in the illustrated weeklies. When they walk together or come out laughing from a jeweller's or a milliner's, poorer women stand on the pavement and cast eyes of hate upon her. Reluctant virtue pays itself with bitterness and spite. At restaurants the *maître d'hôtel* greets them with special favour, finds them the best table and makes his suggestions for the menu with an insinuating deference that is itself a compliment. In the foyer of the opera as they smoke a cigarette during the *entr'acte*, a circle forms round them and women note every detail of her dress, and men think him a lucky fellow. As they go down the great staircase, when the attendant calls that Madame's car is waiting, way is made for them and people whisper their names. These are all satisfactions which are not perhaps the highest but which none the less are very human. Add to all this that no clever woman with an instinct for what is charming, and a desire to please (and no woman rises to the rank of the real *demi-monde* without these gifts), can possibly live in the intimacy and fellowship of men of brains who occupy the higher places of the political, literary, or even business

world, without acquiring varied and intellectual interests. She may not be profound; her accomplishments are often superficial; she talks of more books than she has read; and repeats the jargon of the stage or studio without deeper knowledge. But she knows at least enough to be always entertaining; she seldom makes bad slips; she expresses herself neatly and smartly—sometimes even with real wit.

The attractions of the *demi-mondaines*, then, to men who have such inclinations lie in the fact that they satisfy a thirst for what is, after all, an ideal of a kind, and they accomplish this by their appeal to male vanity, by something in them that sets them apart, by their free and easy *camaraderie*, and by their training and desire to please. For these qualities their friends are ready to put up with their faults—their hardness, their tyranny, and even that worrying capriciousness which is the peculiar mark of the *fille*, whatever her rank in life, from the unfortunate who walks the lowest streets to the titled courtesan who owns a husband in the background. For one thing which is certain is that all these women are creatures of caprice. They must have at once whatever they have a mind to, be it a midnight run in a car through the deserted streets with a fur cape over a nightdress, or be it an invitation to the stately dullness of some semi-royal function. They throw cushions or trinkets about in a fit of temper like spoilt children, if ever they are refused anything. When they have got what they wanted, they are full of smiles and kisses for five minutes and have forgotten all about it half an hour later. The wise man tries to steer these caprices to pleasures that are trivial and inexpensive. One present a day he is bound to give, and he knows that as much enjoyment is produced in her by a flower at the right moment as by a

diamond ring. Hence he has to learn the trick of arousing one cheap caprice early in the day in order to satisfy it with an indulgent shake of the head after a little pretended hesitation. Once he has done so, he is probably immune from further attack for another twenty-four hours. Such are the drawbacks of *liaisons* which are expensive, involve constant attentions and give no security for the future, but which provide amusing companionship, the subtle flattery of elegance and luxury, intimacy without satiety and pleasure without responsibility.

There are men, however, to whom their relations with such a notorious lady have represented all they have known of lovable or beautiful, of feminine and tender in their lives. There is, for instance, an old gentleman, the head of a great and powerful family, with titles and orders too numerous to remember, who is now an invalid in his cold castle under a northern sky. He lies there on the mattress that is his living grave, as he has lain for years, in the immobility of general paralysis. The wife whom he married under a family contract hates, as she has always hated him, and never shows her cold eyes and tightened lips at his bedside except with a sneer or a reproach. His children are out in the world and alienated from their father. An old servant is his only real friend and his companion. But he has other comforters in the chamber of his memory, and he calls them to his help in the long silent hours of the night and the leaden passing of the afternoon. For he had been, the old gentleman, in his time the lover of two courtesans who had been the mistresses of kings and the most famous of the lavish beauties of the age. A gay and debonair officer of the guard, and then a budding statesman, he had galloped at their side, sat in their coupés and leant over white-powdered shoulders

in their boxes at the opera. He had been the preferred lover of women for whom multitudes had sighed and had known love with its most luxurious accompaniments in their apartments. He lies on his bed until death shall have ended the weary day ; but these memories keep him company, a little sad sometimes at the first retrospect but how consoling in the full flood of their remembrance.

These elements which constitute the hold of the *demi-mondaine* over the upper or nowadays—should one say ?—over the richer classes contribute in every rank of society to a similar search among both men and women for amorous companionships more exciting and less prosaic than the average household affections. Moreover, in no small number of both sexes the desire for sheer variety is an important factor. Both men and women grow tired not because what is offered is not excellent but because it is always the same. The story of La Fontaine with its moral, “*toujours perdrix*,” is true to human nature. The courtesan by her existence affords an easy satisfaction to this desire on the man’s side ; and, as in the smarter world, so in every rank in turn one finds that the courtesan’s appeal is heard most readily by men who in artistic temperament, emotional response, or imaginative power rise above the average of their fellows. It may be that he is not the very highest to whom the woman of strange sins appeals : but her appeal is certainly to men who are higher than the mere everyday commonplace of humanity. A few—a very, very few—there are who have the capacity and the good fortune to find in one splendid helpmate all that the being of men can want in soul and body and who can attain, while remaining constant, that variety of stimulus to mind and sense which others seek to reach, however hopelessly, in renewed adventure and reiterated quest.

In general, however, such men—the finer men in the community—will in every epoch and at every level of social existence be forced to seek among professional enchantresses the realisation of those dreams of loveliness which have haunted their fancies. In this sense prostitution is coeval with mankind. It belongs to humanity, it is independent of marriage systems. In fact, it is difficult to see how any system could be devised which should altogether satisfy the craving for variety which is inherent in so many of both sexes and especially in the male, while at the same time preserving any peculiar solemnity of marriage and any legal value. It is inconceivable that (whatever the future may be socially or economically) harlotry of this kind—the gift by a woman of her person and companionship to approved men who can pay her adequately for her services—will be abandoned within any period to which the imagination of man can reach.

It has to be borne in mind also that just as there are men who are drawn to the company of women of this kind, so also there are many women who are by very nature attracted to this sort of career. In every country and in the most favourable circumstances there must always be many who would rather seek their fortune and their pleasure in the exercise of their wits and the use of their physical charm than subside into the daily, dulling round of the home, the kitchen and children. As soldiers enlist, as boys run away before the mast, as men voyage to coral islands or journey across the inhospitable peaks of the Pamirs, so among women, too, there are those who crave for a life more exciting and more perilous, in which they may pit themselves against the world. They use their weapons to win through, as all must do, and their weapons are those which stand in

the courtesan's armoury. The fact is, there are and must be women who wish for a career as men do ; and mean by a career, as real men also, do, a position in which they can impose their will upon others, can taste applause, know power, be admired and loved and excite devotion—a life, in a word, that is really living and in which one plays with men by one's own personality. There may surely be women also, as there are men, who have in them that quality so dangerous but so fascinating which one calls, for want of a better word, “magnetic,” that strange creative spirit which bursts from the soul into the voice and glowing eyes and lit-up face, that force which kindles and inflames, which draws one into and through danger, and which, above all else, is the wildest and the greatest thing in life. A woman of that spirit, with looks in addition or that physical charm which is better than mere looks—where else is she to find the career that can give her what she wants?—the chance to shine and freedom to do as she pleases?



## CHAPTER IX

### BUDDHIST MARRIAGE

CERTAIN features of the problems which attach to marriage in modern Europe have now, it may be hoped, become manifest. It is clear, for instance, that the sexual unions approved as marriage in modern Europe are nominally monogamous. Moreover, marriage is entered upon considerably after the age at which the need for sexual expansion is first felt by young men and women. Most respectable publicists indeed advocate that matrimony should be entered upon considerably later and dissuade from the adventure before a safe competence is secured by the intending husband. This advice is, in fact, enforced by economic conditions in which the overwhelming majority of the male population and all the ablest and steadiest elements in it together with an ever-increasing proportion of the women have to spend the best years of their earlier life working on a precarious margin of subsistence and are enervated and exhausted by protracted and unbroken labour before they are able to set up house. When at last marriage is contracted at an age far beyond the bounds of healthy continence the pretence is maintained in many countries that it is always based upon love : and it is at least based very generally upon a similarity of tastes or interests or a common sympathy and companionship which in a people whose passions are

naturally subnormal and who are often broken by toil may pass for love. In other lands the union is based more openly upon considerations of worldly convenience, and the fact is more frankly faced that passion must be satisfied by the man before and outside of marriage, though the woman may be enabled to get through unscathed by the consolations of religion coupled with careful watchfulness in her parents' home. In all countries the system has thrust a restrictive education of a peculiarly narrow and artificial kind upon women and even upon boys. Consequently, at least, until the last few years, most young women of the middle and upper classes when they married were in a deplorable state, not of healthy ignorance, as some have thought, but of unwholesome mental atrophy. This is part of the price, the very heavy price, which has had to be paid for the system. On the other hand, the sexual needs of vast multitudes of unmarried men and, it may be added, of great numbers of married men also, whom such marriage as they obtain cannot release from cravings and habits to which the system has earlier accustomed them, require incessantly to be satisfied out of marriage.

But before attempting to reach any conclusion regarding modern marriage, it is desirable to survey the attributes of marriage as it is in the leading systems of the world. Only after such a general conspectus will it become possible to measure the value and merits of any particular system in a world where mankind has experimented in such devious ways.

Of the religions which have commanded the allegiance or consoled the desperation of mankind, Buddhism for many centuries counted the most followers. It possesses the most elevated metaphysic that has ever been comprised within a theology. It proclaims an ethic which

must always be an object of respect and veneration, though an enlightened egoism may discard it in the struggle for survival. But as Buddhism has never been dogmatic and has rarely been ecclesiastic, it has not as an institution concerned itself with prescribing the form or incidents of matrimony. Its teachings have no doubt affected the practice and the regulation of marriage indirectly by the assimilation of its principles and by the liberality and equity of its spirit. And its spirit has permeated lands whose official codes and customary observances were originally drawn from other sources. Its influence is manifest upon Japanese matrimonial law and custom in spite of Shintoism, and upon the law of China in spite of Confucianism and immemorial spirit-worship.

In the Buddhist countries, whose aggregate population of 325,000,000 forms the most homogeneous group in the inhabited world, the essential feature of marriage is that it is a civil contract. It has no religious character, for the Buddhist monks, who alone correspond vaguely and distantly to the Western conception of a priesthood, have fortunately always remained aloof from unions which they considered to be of the world and for the world. The matrimonial relation therefore consists merely in cohabitation and the required repute as husband and wife: but the fact of living and eating together is a usual incident of marriage and the readiest proof of its existence. When the bride and bridegroom are still minors the consent of parent and guardian is essential, but except in China no marriage can be valid without the consent of the parties themselves. In China the power of heads of families is greater and usually, though not invariably, there is a written contract subscribed by them on behalf of the two contracting parties.

In the new Japanese Code, Western procedure has been so far followed that a declaration of marriage before a civil officer is obligatory, a provision that obviously facilitates proof in case of subsequent dispute or litigation. The view of marriage as a free civil contract is lucidly enunciated in the law of Siam (Foreigners' Marriage Act, 1898). "Marriage," it recites, "according to Siamese law and custom is a contract between a man and wife to which the ordinary principles which attach to other contracts are applicable, and it is consequently validly celebrated whenever it clearly results from the words exchanged or from the rites observed that both parties freely consent to take each other as man and wife, provided he or she does not labour under some particular disability." Polygamy is allowed by the law in each of these countries and concubinage in China. In Siam there can only be one principal wife, and the status of the other wives is regulated by law. Provided the provisions of this law are fulfilled, any children are legitimate. In China the law is even more tender to children, and in all cases where a man gets a girl with child, it is regarded as his legitimate offspring. But, though polygamy is permitted, it is in practice everywhere discountenanced except in China; and in Burma, Siam and Japan is so rare that it may almost be said to have disappeared. In fact, in Burma and Siam the position of wives is so strong that a second wife can hardly be introduced into a family except with the consent of the first wife.

The strength of the wife's position is also displayed not merely in the daily practice of life, since in Burma and also in Siam she is frequently the bread-winner and always an equal partner, but also in the legal incidents which in those countries follow upon the creation of

the status of husband and wife. The husband is bound to maintain his wife and children, but the control which is vested in him over the household and the family property may not be exercised arbitrarily or without due regard to his wife's opinion.

In Japan the Code is more detailed and particular in regard to the obligations to third parties. But on the whole in Japan marriage constitutes in law a not too unequal partnership with mutual obligations of support and confidence. On the other hand, the fact that the relation is contractual and civil is not allowed to obscure the fact that in a country whose traditions are based on military honour, the husband in the last resort is in authority over the household and that the wife does owe him, while the contract subsists, a certain natural deference and subordination. Only in China has the Buddhist spirit failed to liberate the woman from shackles imposed by obsolete customs and traditions; and in all the provinces of China the girl who is given to a man is given into his power as a child in the power of a father, to live in seclusion and bear unheeded and unseen the pains or pleasures that destiny by the hands of her husband may shower upon her unresisting person. In China, also, alone of the countries affected by Buddhism, the wife is so unfortunate as to lose all rights to property on her marriage. In China, as in England until 1870, no woman can possess property as long as her husband lives: as in England until that year, so in China also her separate estate passes to her husband and anything inherited by her during her marriage likewise belongs to him. But in China there is one humane provision which was absent from the law of England. For a special stipulation in the marriage contract is permitted by which the reversion of her property may

be secured to the wife when her husband's death releases her from her servitude.

In Japan and Siam under modern influences and to meet the complexities of modern economy, there are elaborate provisions in the law to define the respective rights of man and wife in hereditary and jointly acquired or separately acquired property. In both countries the principle that marriage is a voluntary civil contract has been equitably followed. A statutory regime is provided which secures the wife's rights without unduly impeding transactions which are intended for the joint advantage of both. In each of these countries these provisions of the law are as just and reasonable as can be devised in any legislation which human judges have to apply to the affairs of living men and women. The rules for the division of property upon death or divorce are particularly fair and clear in Siam and might with advantage be copied in other countries.

Since, in all the lands upon which the spirit of Buddhism has operated, marriage is a relation entered upon by civil contract, so also it can of course be dissolved like any other contract by the consent of the parties interested. No one could be found in those countries to whom it would occur that, when both husband and wife are dissatisfied with their union, they should still be compelled to continue in it. Both are regarded as free agents who have to win through life towards the purification and liberation of their own souls: the motive of marriage is to secure happy companionship upon the way; and if the union merely imposes a burden upon both, how shall they be withheld from agreeing to regain their freedom? It is therefore only where there is no mutual consent that divorce cases come before a court for adjudication. In other

cases divorce is constituted by the consent itself. It may, however, occur that one of the two parties desires from jealousy or spite or some similar reason to deny freedom to the other. In some further cases insanity or exile may incapacitate one or the other from consenting. And in the law, of course, every sort of eccentricity has to be provided against. Actual cases, for instance, have been known where a man who was impotent nevertheless refused consent to a divorce. Hence, in each of the Buddhist countries, the Government has provided a judicial remedy in cases where the partners do not agree to the dissolution of their union, just as a legal remedy is provided for other dissolutions of partnership. Desertion is an obvious ground for such judicial intervention. Where the husband has become a monk, this also is a ground for compulsory dissolution by order of a court. Ill-treatment entitles a wife to divorce, and so does the commission of a serious crime or even heresy on the spouse's petition. Any breach of the marriage covenants naturally justifies a decree as it voids the contract. Such a case arises when the husband breaks his agreement not to take a second wife. Another ground may be insulting language held to the other spouse or even to his or her relatives if it be such as to make common life intolerable. There is a further reasonable provision in Japan under the modern Code by which notice of divorce must be given to the official registrar as in the case of marriage, though it occurs by mutual agreement.

In this whole group of countries it must be remarked that there is with possible exceptions in Japan and certain classes in China a remarkably high level of domestic felicity. In the cases of Burma and Siam especially, on the testimony of those best qualified by long residence

and intimacy to express an opinion, the degree of happiness attained in all classes of society is very considerably beyond what is known in other lands. There is also no question that women obtain an unusual amount of liberty and opportunity for self-fulfilment in these two countries. Those who have ever had the privilege of meeting in familiar social intercourse a graceful little Burmese or Siamese lady must have been struck by her vivacity, the trained promptitude of her intelligence, her kindly charm and that air of smiling happiness which radiates from her soft, rounded features.



## CHAPTER X

### HINDU MARRIAGES

**I**N the Indian continent Hinduism views the universe and man's relations to the Final Cause in a manner not much dissimilar from that of Buddhism. Buddhism is, after all, an Indian religion derived from Indian culture, preached by an Indian prince and propagated by Indian traders and missionaries, even though it was subsequently extirpated by Brahmin power within the confines of India proper. Hinduism, however, contains even less of definite creed or dogma than Buddhism. On the intellectual side it is rather a point of view than a belief. What makes its strength and composes its unity is that it stands definitely for a certain manner of life. More than anything else Hinduism is a social system. It is a system of regulating human society and corporate life which comprises many diversities within one composite whole. It accepts as self-evident and inevitable the division of men into many classes and races and the duty of man into numerous functions and occupations. To each it assigns different parts and privileges. But it unifies the different portions of the community by propounding one interpretation of the universe and imposing one general plan of common life. The ultimate ideals are the same ; the common purpose is to attain absorption in that selfless absolute spirit which animates every element of

the manifold universe. But the way is not the same for all : and each must do his duty in the station of life to which he has been called.

No religious or philosophic system has ever stated so clearly as Hinduism the fact that morals are relative and that duties must vary according to function and capacity. Every right action, it may be admitted, should be directed towards goodness and should be guided by one divine spirit. But in its application to practical needs human activity must be poured into numerous and divergent moulds. The functions, the duties, and the virtues and values of a warrior caste, for instance, cannot but be notably different from those of a class created to study, to teach and to serve those gods who are the not-eternal symbols of the Final Cause. A caste of artisans and a caste of menials again must have duties as they have stations in life widely different from either. Again, the functions and capacities of men and women are different from each other : sex is of the very essence of being : and the two sexes cannot have identical rules of morals. The particular rules enjoined by the Hindu ethical code are often arbitrary and artificial : they are sometimes trivial : they depend too exclusively on authority and are apt to stifle the spirit of free enquiry. But it is the frank recognition of those differences in duty and station which constitutes perhaps the most valuable contribution of Hinduism to ethics.

In accordance with these principles marriage in the Hindu system is not by any means one and the same in all classes. Nor does it everywhere carry with it the same implications or the same responsibilities. The difficulty in dealing succinctly with any problem in Indian life or administration or of stating exactly in reasonable space any of the facts of Indian existence lies precisely

in this endless diversity and variety. And the difficulty is at least as great in dealing with Hindu marriage as with any other subject from Hindu life. No generalisation can be uttered which is not liable to immediate rebuttal by some contrary fact. It is impossible to make any abstract statement to cover all the different ingredients which compose the mass of Indian society. In the case of marriage, for instance, each caste and sub-caste has its own separate rules, its separate tribunals and its peculiar customs. But the castes of India run into many hundreds, and even into thousands. All that can be attempted is to take those castes which belong to more or less assimilated groups and to submit certain considerations that apply to each group in turn.

The Brahmin castes are the clearest exponents of the Indian system. The Brahmins—who are a community divided into numerous sub-castes that neither eat nor marry together—form the highest group in the social hierarchy of the continent. They are the depositaries of the religious and philosophic teachings of the past, the guides of Hindu virtue and the archetypes of Hindu conduct. Their households are the models on which other social classes form their own, each as far as environment and education will permit; and their women undoubtedly represent to the vast majority of their countrymen woman as they would like to have her, woman as they would paint her for an ideal world. In a word, it is Brahmin thought about life and conduct which has shaped the minds, the expectations and the institutions of the Hindu peoples.

Now concerning what Brahmin marriage is or until twenty years ago was, there is little ambiguity. Latterly a few young men and women influenced by ideas developed through contact with Europe, are turning

away from customary practices and inhibitions, and are adopting manners in regards to sex which are often all the more European when those who adopt them are most hostile to Europe. Such young people either marry late or not at all. They demand personal choice and mutual liking before marriage: sometimes they extol celibacy either for its own excellences or because a student or a revolutionary might be impeded in his activities by the existence of a family. They fall under the influence of leaders of a visionary type who profess abhorrence of those Western teachings from which they have learnt the lesson of revolt. They become the apostles of creeds which are even more novel to the ordinary Indian than they are to the European. But persons of this kind are still exceptional, though economic causes are daily making them more numerous.

The economic changes brought about by the invasion of capitalism and by the fact that India now produces for and sells in the world market, have caused violent enough effects in the same period upon the domestic customs of the people. Undoubtedly marriage now tends to be entered into at a later age than before, and, in a relatively small number of cases, there are men and women who even stay unmarried. At the same time there is already a marked tendency for the joint family household upon which the traditions of Hindu marriage have been built up, to crumble and disappear. It is probable enough, therefore, that in another twenty, thirty or fifty years, if the currents of society flow on without impediment as they are doing, the ideals of marriage which have flourished among the Brahmins of India for several thousand years, may be torn up and eradicated. But at present they still stand firmly enough, as the fixed points of conduct, even if there be some

shifting of the sand which has blown upon their roots.

Among the Brahmins and the castes that most closely resemble them and approximate to their ideals of conduct, marriage is an indissoluble sacrament arranged under divine guidance primarily in order to continue the family and also to provide for the correct observance of family worship. It is not designed, except incidentally and subsidiarily, for sensual satisfaction. It is arranged as a rule between children without their consent by parents or guardians ; and in any case it is a duty to get a daughter married either before or at least just after the age of puberty.

When marriage is contracted at such early years it must be obvious of course that it is only a sort of firmer betrothal and that it can seldom be consummated at the time or perhaps for years afterwards. It brings, however, at once all the rights and especially the disabilities of marriage. If the boy dies, for instance, the little bride in name becomes a child widow forbidden by Hindu law ever to marry again. At the ages at which marriages are arranged it must be obvious there could be no question of choice by the parties, even if it were otherwise permitted. The bride and bridegroom are chosen solely by the parents ; and a wearisome and anxious choice it often is. In the first place, as by the Hindu canon legitimate marriage can be contracted only within the small group or community known as the caste, and must be contracted outside the circle of the actual family and of kindred descending from a common ancestor within seven generations, it will be evident that the choice must, in any case, be sufficiently restricted. There are communities so small that practically no choice at all exists and even the caste itself is threatened with extinction

in the absence of possible valid alliances. But beyond this primary difficulty the guardians naturally desire to find a bride or bridegroom (as the case may be) of suitable fortune and position, of unstained and healthy parentage, of some promise of brains and character, and, when possible, of some physical attraction. This, however, is not enough. Marriage is regarded as an experience ordained and necessary, so fraught with responsibilities for the race past and future, and so intimately accorded to man's duty towards God, that for its happy conclusion are needed the favourable auspices of Providence. Hence the astrologer is called in to scrutinise the conjunctions of the intending spouses' horoscopes. Marriage is allowed only when the sanction of heaven is thus declared. The actual ceremony is rich with reminders that what is being accomplished is something that is more than worldly, something that consecrates and, in a sense, sanctifies. It consecrates, at least, for a life of devotion and of sacrifice, and much indeed is sacrificed beyond that which is called for to some degree in every marriage.

There is the sacrifice of inclination, of freedom of choice, of passionate search and passionate finding. And there is the sacrifice of that ecstasy of transfigured love which is the supreme gift that life offers in its outstretched hand. The rites of the Brahmin wedding are shaped to the great purposes of resignation and devotion : and the symbolism of the grasses that are laid together and the words of prayer and the invocation to the Pole Star, and the ceremonial ambulations round the sacred fire are so many reminders that marriage is a duty to a family, to a race and to a divine purpose ; and that the taking on oneself of this duty is in very deed a consecration. For the wife especially this is true and on her the duties

imposed by the full charge of divine and human legislation are of abnegation, of effacement and of devoted service. Her volition and her personal desire are offerings at the feet of husband, family, children and religious or customary regulation. She stands beside her husband during the long daily ritual before the household gods and her presence is needful to render his prayers effective.

It must be noted that polygamy is in theory allowed to a man, at least, if his first wife be barren : but in practice with few exceptions it is discountenanced, and might almost be said not to exist. From a woman absolute fidelity is expected, though in some places and sub-castes the practice has been kinder than the theory. Even after her husband's death she is forbidden to remarry and is expected to preserve her fidelity to his memory in her widowhood. If, as frequently happens, she was married as a child to another child, she has to be a constant widow without ever having been a wife. The man, however, if left a widower except in the extreme of old age, is pressed and indeed compelled to remarry : and cases often enough occur where the bereaved husband celebrates his second wedding in the next week or even on the next day after his wife's decease. Whatever his own years are, it is only another child at the age of puberty that he can marry, since no girls are allowed to pass that age unmarried.

Divorce does not exist among Brahmins and separation amounts only to humiliating dismissal of the wife to her parents' home by a dissatisfied husband. Very occasionally an ill-treated wife runs away and finds a refuge with her father. But this can come only as a last resource. Indeed, in order to avoid a scandal almost any pressure will be put upon the unfortunate girl to return to her torture. It is pointed out that suffering at the worst

lasts but for one brief life. And what is life which passes like a moment? There are many reincarnations that have to be lived upon the revolving wheel of eternity.

In regard to property Brahmin law is complicated and varies in different provinces. In general the wife does not by marriage acquire any interest in her husband's property or any voice in its management and, even if he dies, the family property passes to her sons or other heirs or their guardians. In the rare cases where the wife has separate property of her own, it sometimes passes to the husband and sometimes not. But by every code he is allowed to use it for what he judges to be a suitable emergency. The wife's dowry is paid over to the husband or his family and never belongs to her at all. The only property that as a rule she owns in any real sense is what is called "*stridhan*" or "woman-owned" property, which consists as a rule of a few jewels only. Even of these, few women would dare to dispose without a husband's consent. The fact is that in the Brahmin and allied castes the woman's position is one of entire subordination. Obedience in everything and at all times—not only to the husband but also to his parents—is enjoined upon her by sacred literature and enforced by training and public opinion. Her part is of devotion, submission and resignation. Her reward as far as it is of this world lies chiefly in the love and veneration of her children.

Now there is fortunately little doubt that, in those upper castes in which this type of marriage prevails in its purity, it has as a whole resulted in a great deal of what is certainly reasonable satisfaction, if it is not happiness. The Hindu character is as a rule mild, kindly and grateful, and the quiet acceptance of Destiny is a general habit. In the Brahmin castes especially there



is considerable self-control, little of violent passion, much of an abstract and hyper-sensual idealism. There is, also, a discipline which regrets and contemns the yielding to desire and seeks to elevate the mind above the temptations of the senses. There is, therefore, little acerbity or quarrelling between the spouses. Most couples pass through life in substantial contentment, and often enough with real affection. In the larger joint-family households especially, where such still persist, each has his or her separate duties which keep them separate and busy most of the day; and they are spared the discussion of those monotonous and annoying details that so often lead to estrangement. It is also generally the case that a man and wife brought up together in early childhood, as they are from the date of their legal wedding as children, sharing their little confidences together and in the end allowed by their parents from time to time to taste the further pleasures of love from the age of fifteen or sixteen onwards, and deprived also of those opportunities of meeting others of the opposite sex, which in Europe so early influence the adolescent life, guarded above all from the temptations of illicit affairs—it is the case that such a man and wife will generally grow up in a sort of mutual habit of trust and even affection one for the other as of two comrades, boy and girl, who have to walk the path of life together and find it natural to go on playing with one another as they have already done in the serious large-eyed childhood of India.

On the good side this is Hindu, or rather Brahmin, marriage, and it would be foolish to deny that, at this level, if this were all, there is a great deal to be said for the system. At its best, it gives security, quiet affection, unruffled contentment and easy, undisturbed, and perhaps

a little stagnant placidity. It harmonises with all the resigned quietism of the Hindu mind : and, where that temperament is found, can be successful enough. The loss is in things that to the individual are *imponderabilia*, though their importance to the race is perhaps supreme. The loss in regard to natural selection is certainly serious. It may well be that the passivity and resigned acquiescence, which more than anything have kept back the Indian people in the struggle for national existence, are in no small part due to the propagation of generation after generation by parents who have been joined from motives and with feelings less powerful than love's desire. The loss in regard to artistic life and artistic creation is more evident. It is almost certain that the deathly slumber into which the arts in India have sunk is directly due to the atrophy of sexual life.

On the other hand, one finds, of course, numerous instances in which quietism has not prevailed, and the marriage so arranged has led to deep sorrow or life-long tragedy or been cut short perhaps by a murder or a suicide. The system has tended to have different consequences in the various regions of India. India is in reality a continent inhabited by many peoples : and the application of the system has not been quite the same in every part. Frequently the man has sought and found consolation, or, at any rate, acuter physical pleasures outside his home. Often enough, he has brought back to his wife the contagion of dangerous diseases. Not infrequently he has forced upon her the presence of a favourite mistress within the very house and expected her with the deferential acquiescence of a Hindu wife to serve and wait upon a rival. There are cases, too, where the wife has found consolation in hurried para-

mours for the coldness and neglect of a husband whom she never loved : and there even exist cases where a husband has profited by his wife's dishonour. The system at its worst has led to the sale of daughters and the purchase of wives, and many a precious child-wife has been sacrificed to the lust or indifference of an old and detested husband. The tragedy is heightened throughout by the knowledge that re-marriage after widowhood is impossible and that, if death gives release from unhappiness, it must condemn the victim to the alternatives of a life of abstinence or a life of shame. At its worst Hindu marriage can be very horrible without remedy or relief. To make it tolerable there was needed an ever-present dominating faith in an eternal and infinite reality on whose pre-ordained procession the life of man is but the passing shadow of a dream. Inroads are now being made upon the system partly by economic pressure and partly by the contagion of Western ideas. It is to be expected that with the growth of freer thought and looser action the rigidity of a sacramental and indissoluble marriage of this kind will be felt with ever-acuter misery.

Among the ruling chiefs and the warrior castes women in marriage bear an additional burden with little to compensate them in return. Within the palace itself the wife finds herself obliged to endure the presence of rivals. For, to the soldier, greater license is allowed than to the studious priest or scholar. The fighting man eats well, lives well, hunts, rides, exercises his muscles, strengthens his body. At every moment he must be ready to risk danger for his country's sake or even for glory or for sport. It seems natural, therefore, to allow greater freedom in his loves to his lusty vigorous manhood, and Hinduism has always tolerated a *zanana*

for its nobles and its princes. Other wives come in to share a husband's affections and sometimes to alienate them altogether. Other mothers intrigue against her children. In addition there are less honourable but sometimes more transitory amours to fear. A pretty serving-maid often enough becomes a concubine and the dancing-girls attached to the Court are usually the playthings of their ruler. The compensations, such as they are, consist in pomp, a certain amount of rather primitive luxury and idleness, the doubtful pleasures of intrigue and the subservient company of many other women, chiefly servants. These are further paid for, however, by a seclusion which amounts to imprisonment, and which, in some Rajput houses, is so wickedly jealous as to forbid a visit even from a nephew or a brother.

Until the barbarity was put down a hundred years ago, by a British Viceroy, the position was paid for also by the last most terrible pang of all, a death by burning, if her husband died the first. Conceive, if you can, a case, which happened perhaps hundreds of times each year, when a young girl just ripening gently out of childhood was given in marriage to an aged chief. A few hurried embraces were hers, frightened little embraces to a husband she had never seen till she was thrust into his arms, a husband old, broken, careless or perhaps cruel, to whom her timidities were only an added amusement—these and a little time to play at being a palace lady and lie in a balcony and hear the fountain splashing in the court below—and then came the inevitable ending. The cruel night when the servants ran and whispered and there were torches in the courtyard and the sound of galloping horses and the news was brought to her in her locked rooms that the prince was ill, that doctors were summoned, that he was in

worse pain, that the fever was greater, that he was unconscious and then—silence :—and, at last, the news that he was gone ! By midday the corpse would be borne out to the funeral-pyre for the burning. Music went before it, and it was escorted by guards on foot and by guards on horseback. The priests attended to chant the sacred hymns and give the blessing of heaven on the crime that was to follow. And on the pyre, before the soldiers' spears, livid and fearful, stricken down by inevitable Fate, there huddled together half a dozen women who had been the dead man's wives. They were of various ages—one perhaps had loved him well while both were young, before her heart had broken—and the others were unwilling prisoners—and the last was only turned sixteen—her eyes just opening upon life. The corpse was placed upon their knees : the wood was set on fire : and the women died.

It is better now ; but even to this day the situation of a ruling chief's or even a Rajput noble's widow is indeed pitiable. She is dependent for everything on the next ruler and the dispositions made by her husband may be set aside without appeal at a successor's whim. In accordance with the recent administrative policy of avoiding any intervention in the internal management of a Native State, the representative of the paramount power is forced to view without remonstrance any treatment, however unjust, to the widow of one who, while he lived, wielded the same arbitrary power. As the successor is often enough a rival's son, bred in the same atmosphere of intrigue and imbued at his mother's knee with hatred of a woman whom he had to fear, it is not surprising if she has to suffer bitterly when the time comes. Nor, with such a fate impending, can it be subject for wonder if a barren wife will make every

effort to introduce a changeling secretly into the family as her child, in the hope of becoming herself a ruling dowager when the factitious heir is in turn enthroned.

In the labouring and menial classes of India, marriage is less rigid. It is still contracted between children by the parents' arrangement. But it has lost something of its sacramental and most of its indissoluble character. In theory the wife is still the submissive servant of her master-husband, but in practice, as she shares in labour, she also shares in authority : and not infrequently she berates her husband quite as much as he abuses her. In most castes of this kind a widow is allowed to remarry, though there is a constant tendency as a caste rises in the social hierarchic scale, to put the seal of respectability upon its character by depriving its women of this privilege. The tendency has been accelerated of recent years, owing to the usual democratic snobbishness ; for, as Jack is taught to think himself as good as his master, so he begins to imitate, ludicrously enough, the habits and notably the bad habits of those that are above him. India has not escaped infection from such tendencies ; and in consequence, in the last twenty-five years, many millions of Indian women have been deprived by caste custom of the right or privilege of remarriage. Against this, all that there is to be set is the example of a handful of reforming Brahmins who, with much noise and advertisement, have occasionally dared to marry a child-widow of their own community.

Among the aboriginal tribes—those who a generation ago were entirely outside of the Hindu pale but who now are daily more and more rapidly being admitted into the ferment of Hinduism—marriage is freer by far and also, it may be said, much happier. Where they remain unspoilt, young men and women marry because they

want each other and not because their parents wish it. In many cases the marriage follows after a trial period, during which they have discovered that they really suit each other. Sometimes the young man, like Jacob, served seven years in her father's house, before he won his wife for himself, and during that period, of course, they lived together in intimacy. And in many cases also the bride-to-be had had several affairs before she finally settled on the man she really liked and was prepared to follow. Re-marriage in case of death is, of course, allowed and frequently practised. And marriages in these tribes are usually faithful and usually happy.

In the last groups, the artisan, labouring and aboriginal, it is important to notice that divorce and the methods of granting it vary with the different castes and are laid down by custom. Where custom is disputed, it must be proved by the evidence of old men in the caste. The main ground, of course, is always incompatibility. In general, divorce requires either the adjudication or the ratification of a caste tribunal. These caste tribunals themselves are constituted differently in various castes. In a few, an hereditary leader of the caste is himself the judge. Such an instance is that of the fishermen (Son Kolis) of the western coast, whose affairs are subject to the jurisdiction of a hereditary Sarpatel, with his local deputies. In other cases, the final authority is a religious preceptor, to whom disputes are submitted. More commonly, however, the tribunal consists of five respected members of the community elected either for one year or for a term of years, whose decision is final. Sometimes, though far less commonly, where a caste is small and inhabits one small area, cases are heard before a meeting of the community and the decision is given by the whole assembly. What is certain is that in all

castes which belong to this category there is some tribunal seized of matrimonial cases. In many of these castes, however, the husband himself has also a summary power of divorce, which he can exercise at will. Where he does so, he must make the fact known to the caste and give his wife a written document to say that she is divorced and free to re-marry. In India, however, it is almost always the wife who wishes to divorce and not the husband, for it is she who suffers most in cases of disagreement and not he. When, therefore, the husband grants the divorce it is nearly always at the instance of the wife; and it is not infrequently granted in exchange for some small money consideration, to compensate him for the expenses of the wedding.

This, then, is a conspectus of Hindu marriage, as it is by tradition and prescription. In the upper classes, much of the harshness has in the past been mitigated by the faith of those affected in the inexorable decrees of an inscrutable Providence. They were resigned to miseries which they held to be predestined and made the best of a situation that was independent of human free-will. The inroads of scepticism are making it more difficult for Indians of those classes to bear married misery with patience. In the working classes ease of divorce has been a charter of liberty, which has been beneficial especially to the woman and has on the whole secured a remarkably high level of felicity.

Unfortunately they are now impeded in the use of those customary and salutary rights by an objection as unexpected as it is extraneous. Under British rule the supreme Courts of Justice in India are composed mainly of English judges, but partly also of Indian-born and English-trained lawyers recommended by their English colleagues. All necessarily take their ideas of law from



the practice of English courts : they are, as a rule, entirely ignorant of any other modern legal system or procedure, and have little knowledge of Hindu legal tradition or custom except in as far as it is Brahmin custom or doctrine enshrined in Brahmin books. Necessarily, also, like the courts and lawyers of England, they are in favour of everything which strengthens the authority and adds to the emoluments of the legal profession. If any procedure is suggested which would curtail the length and cost of litigation ; if any enactment is proposed which would simplify rights and responsibilities or expedite the settlement of disputes : the vote of the judicial bench can be counted upon with certainty to obstruct it. In India in accordance with these principles the courts are also invested with power to scrutinise and set aside the acts of the executive. In India, as in England, by abusing the rights of interpretation these courts have largely usurped the functions of the legislator. Over and above their duties of explaining the law, they have exercised the function of stating what the law ought to mean and are incessantly curtailing, modifying or extending it in accordance with their preconceptions of what is fitting, moral or profitable.

In the Bombay High Court suits for injunctions have been filed by speculative lawyers on a husband's petition in cases when divorce had been granted according to the proven custom of the caste by a duly constituted caste tribunal. The British court had in those cases refused to accept the finding of any Indian matrimonial tribunal acting according to Hindu custom and tradition. It has ruled that the court will not recognise the authority of a caste to declare a marriage void or to give permission to a woman to re-marry. The judges have stated that even bona fide belief that the consent of the caste made

the second marriage valid does not constitute a defence to a charge of marrying again during the lifetime of a former husband.<sup>1</sup> In another case they propounded the ludicrously wrong-headed view that a caste custom which allowed divorce and re-marriage was invalid because the British court considered that it was opposed to the spirit of Hindu law.<sup>2</sup> The most unfortunate, however, of all this series of cases was that in which a woman and her second husband were actually convicted of bigamy in spite of a divorce correctly given by a native tribunal. In that case the woman had been married in childhood to the complainant but the marriage was never consummated. Some time after the marriage the complainant went to South Africa. During his absence he neither wrote to his wife nor furnished her with any provision for her maintenance. On these facts the woman had recourse to the tribunal of her caste which reasonably and in accordance with both custom and natural morality granted her a release by dissolving the marriage. The High Court, however, knew better and sentenced the unfortunate husband and wife to imprisonment.<sup>3</sup> It can be imagined that these two persons at any rate and their friends and relations will not be enamoured of British rule. If the rulings of the Bombay High Court were binding upon the whole of British India, divorce would now, owing to these decisions, have entirely ceased to exist among Hindus.

Why this is so requires further elucidation. In British India there are upon the statute-book only two laws of divorce, the one applying to Christians domiciled in India, the other to the small Parsee community.

<sup>1</sup> Rey, V.S., Sanuphee I.L.R., I, Bombay, 347.

<sup>2</sup> Bhai Rupa, Bombay H.C., 117.

<sup>3</sup> v. Bai Ganga, 1916, 19 Bom. Law Reporter, 56.

These, of course, are recognised by the courts as being British-Indian laws. Further, the British courts have so far not withdrawn their recognition from divorces granted by Mussulmans according to Mussulman practice, though in those cases the procedure differs from that in Hindu divorces by being less regular, more arbitrary and less public. But Mussulman tradition has been committed to writing and is more available, while the courts for good reason are more timid of running counter to Mussulman feeling. But, as a matter of fact, although the courts do not directly interfere with Mussulman marriage, yet indirectly their extension has seriously hampered Mussulmans also in the exercise of their rights and the adjudication of their disputes. For they have superseded the indigenous courts which had been established according to Mohammedan faith and law. The result is that there is now no proper machinery in the whole of British India to try and decide any matrimonial cases among Mohammedans either, though judges for the purpose are not only required in the theory of Islam but actually officiate in the practice of every Mussulman country and in the French colonies. In Algeria, for instance, indigenous courts have been maintained and are regulated and supervised by the French.<sup>1</sup> There, in consequence, the Mohammedan subjects of France are able to obtain at once all the relief and assistance to which they are entitled by their religion. The obstacles put in the way of Mohammedans to enjoy their own legal rights and privileges in India have already been much felt and resented by the thinking members of the community, and with the political advance of India and the reforming movement among Mussulmans, there is not doubt that discontent with

<sup>1</sup> *Personal Law of the Mohammedans*, by Syed Ameer Ali, p. 381.

the British courts will soon become acute and require remedial measures.

As far as Hindus are concerned, however, there is no statute and no provision of any written law by which they can claim or obtain divorce in any court established by law under the British Crown. The position, therefore, is this. On the one hand the British courts or at any rate the High Court of Bombay have deprived Hindus of their customary rights of divorce and have forbidden their customary procedure. On the other hand, no forum is provided by British law for any Hindu matrimonial cases. It is obvious, therefore, that if these findings were universally binding or followed throughout in India, no remedy of any kind and no relief would be left to the Hindu man or wife. There would be no escape from unhappiness except suicide or murder.

This sudden and surreptitious change in the most material of those relations which regulate the manners and influence the happiness of human life is not confined in its effect to an insignificant fraction of the population. Of the 320<sup>1</sup> millions who inhabit India more than one-fifth or 69 millions are Mussulmans; of the rest one-third are subjects of Native States who are not bound by the decision of British courts: the population of Burma comprises 13 millions more who must be excluded as they are not affected by Indian laws of divorce: 155 millions remain. Of these it may be computed that 30 millions belong to castes who have never enjoyed rights of divorce because they preferred unhappiness in a consecrated union to freedom and felicity. There remain, however, 125 millions who supply many of the robustest elements of the Hindu population. These

<sup>1</sup> Figures of the 1921 census.

are not merely the hewers of wood and the drawers of water. They are the fishermen, the graziers and the craftsmen of the country, and include, also, immeasurably the largest portion of the farmers and farm-labourers as well as a majority of soldiers in the Indian army. Without any notice and without their cognizance these multitudes of the King-Emperor's Indian subjects have had altered in a material feature that marriage system under which they have lived, they and their ancestors, without change or molestation for a period of time which reaches hundreds of years beyond the epoch when England under the Tudors first felt feebly for an empire, beyond the date when French nobles in England fought with French nobles in France for the lordship of the two peoples, and beyond the time when Anglo-Saxons strove for a new home against the Roman-Britons. These Indians have been deprived of their rights by no considered decree of a responsible executive, by no mature decision of a representative legislature, under no pressure of expediency and with no purpose of policy ; but without deliberation by the irresponsible verdict of a court of law. That verdict itself is directly opposed to the magnificent proclamation<sup>1</sup> of Queen Victoria, rightly regarded by all Indians as the Charter of their new-born nationality :

“ We disclaim,” it proclaims, “ alike the right and the desire to impose our convictions on any of our subjects. We declare it to be our Royal will and pleasure that none be in any wise favoured, none molested or disquieted by reason of their religious faith or observances, but that all shall alike enjoy the equal and impartial protection of the law : and we do strictly charge and enjoin all those who may be in authority under us that they abstain

<sup>1</sup> Published at Allahabad on 1st Nov., 1858.

from all interference with the religious belief or worship of any of our subjects on pain of our highest displeasure. . . .

We will that generally in framing and administering the law due regard be paid to the ancient rights, usages and customs of India.”

It may be hoped that under the new constitution introduced by the Reforms scheme and with the increasing power of the popular or non-Brahmin party, steps will be taken by early corrective legislation to redress the effects of judicial interference and restore to the great silent masses of Hinduism and especially to the suffering among its womanhood those remedies which the wisdom of their ancestors had provided.

## CHAPTER XI

### MUSSULMAN MARRIAGE

THE meaning of marriage in the Mussulman countries of the world must next be investigated. Islam was the third and last of the three great Semitic religions and was able to profit from the examples of Judaism and Christianity, which it followed in time. The Christian peoples have since the Renaissance been influenced by the classic spirit more than the Mussulman peoples at any period of their history. But as a religion in its beginnings Islam was influenced by the development of Greek philosophy in the Hellenistic world to a much greater extent than Christianity. The moral philosophy of Aristotle is repeatedly reflected in the ethical teaching of the Qor'an, in the *sunnat* or the law and the *hadith* or traditions. One result is that the moral code of Islam is constructed mainly on that virtue of justice which to Aristotle had appeared cardinal. To give to each that to which he is entitled, to distribute to each and all their due shares, this appears time and again in the lofty cadences of the Scripture as the primal and the supreme duty. Other religions have urged virtues which emanate from sentiment and emotion, have inculcated love, for instance, or charity or pity ; no other has ever founded itself so thoroughly upon a virtue that is deduced by reason and supported by the understanding. Among the attributes

ascribed to the Deity there is conspicuous in Islam a group of words which all signify in some form or other the concepts of allotment, distribution and equity. One of the supreme titles of God Himself is *Al Haqq*—"the right."

One consequence of this insistence upon justice as of the essence of conduct has been that the moral code of the Mussulman peoples is more apt to deal with the relations of man to man as contracts in an almost juristic way than is the case in other religions. All believers are regarded as brethren whose conduct is to be shaped either by contract between themselves or under a covenant made once for all between God and man. Notably has this conception shaped the Mussulman view of the sexual union of men and women. Marriage in Islam is always and completely a contract. It is an agreement made for their own purposes between a man and a woman. It has nothing in it of the nature of a sacrament: it is not extra-mundane: it has no implications in any other sphere. It is a contract binding on this earth like any other. Like any other it must be executed or cancelled in accordance with the demands of equity. And the principles underlying such contracts and their enforcement are stated in the Scriptures in as many lucid articles and with as much technical detail as they could be in any Act of Parliament or any statute of a legislature. No other religion has ever been at such pains to assure by its prescriptions that substantial justice shall of necessity be done to women in the contract and its incidents.

It is a curious irony that Islam—a faith so rational and advanced—should be that selected above all for vituperation in the Europe of nineteenth-century "progress" on the score of backwardness and fanaticism.



It had at one time almost become a common-place to ascribe all manner of stagnation, maladministration and moral evil in Oriental and African countries to the prevalence of Islam among the people. These accusations could have been made only by those who were without historical knowledge. But to cover this ignorance the word "fatalism" was discovered and attached on every occasion to the Islamic peoples. Such accusations were even with most unhappy political reactions repeated upon the public platform by a demagogue with the gifts of eloquence and a vivid personality, who contrived for a short time to be Prime Minister of a great empire. It is true that to the modern European the seclusion of respectable women is as distasteful and as unaccustomed as the legal recognition of polygamy. Both belonged to the Mussulman system. It became habitual, therefore, in certain European groups to deplore the degradation of the Mussulman woman and to contrast her position to her disadvantage with that of her European sisters. Such was the final and often the main article of the general indictment of the Mussulman world.

The facts are, of course, widely different. For the charges entirely ignore the great historical events which changed the face and altered the destinies of the Mussulman world. The Tartar and the Mongol invasions which convulsed two centuries swept over the cities and devastated the culture of Islam. In their track they left only wasted lands, ruined peoples, and prostrate polities. Before the cataclysm came, Mussulman civilisation had nourished and maintained all that was best of human science and culture. Inspired by the teachings of the Prophet and fed by the admixture of Persian intellect with Arab energy and chivalry, those enlightened

commonwealths had flourished which found their loftiest and most harmonious expressions on the banks of the Tigris, in the "City of God's wrath" by the Nile, and in Granada where the streams run down the slopes between the shady groves. What survived of Greece and Rome lived in their keeping : what was vital and progressive in the world pulsed through their corporate being. But the flowers of those gardens were blown down and their fruit trees laid low by those human tornadoes which bore the names of Chengiz Khan and Hulugu and Timur the Lame. More suddenly, more atrociously the pleasant fields of that noble civilization were ravaged and turned into savage wastes by those calamities than even declining Rome had been by the inroads of Western barbarians. And Europe in turn would have suffered similar destruction by the same plundering tribes had it not been for the steadfast resistance and self-sacrifice of one people. The Hungarians made their breasts the unyielding rampart of the Western world. The centuries which have passed since those invasions have been for the East ages of slow recovery from almost irretrievable ruin, recovery often set back by impacts from a greatly altered and acquisitive Occident. It is only now that the dawn of a Mussulman Renaissance has again suffused the sky. Not to the faith, therefore, can be computed all that has befallen the lands of the Crescent nor the shadows that still lie upon them ; but to the historical fact that they were traversed by the marches of these nomad hordes and suffered the first violence of their attacks.

The rules which prescribe the position of women and regulate matrimony and its incidents in Mussulman countries, are revealed in considerable detail in the verses of the Qor'an itself, have been amplified in the

body of traditions and are expounded in the commentaries of the scholastic jurists. No law can ever be so detailed as to provide for every case or so exact as to avoid all prevarication. In time annotation or commentary is sure to be required. Moreover, Islam was almost from its beginning disrupted into two antagonistic sects. The racial or national quarrels, that had in the days of ignorance for untold generations divided the Northern from the Southern Arabs, continued into the age of Islam and embittered the elections of the first four Khalifas. The sectaries of Hazrat 'Ali, the leader of one faction, found friends and adherents in the Aryan inhabitants of Persia, and the genius of Persia in turn pruned and trained the spreading tree of faith into that shape which is known emphatically as Shi'ah or the Branch. The main body of Islam, however, consists of those who bear the name of Sunni. In this, which is the regular and solid body corporate of the faith, there have been four schools of jurisprudence—four schools which have separately and to some extent diversely expounded what is and what is not the law applicable to believers. The four founders of those great legal schools are the four “pillars of the faith,” and the exposition of one or other of them has been adopted by each of the Mussulman nations, except where the Shi'ah branch prevailed, and has been enforced by the civil power. For in all matters which are contained within the Qor'an, the civil power in a Mussulman country has no initiative and no power of further legislation and can only act ministerially by applying the law as it is declared by an ecclesiastical lawyer.

In the interpretation of the law which applies to marriage there are ample divergencies as one or other of the four Sunni schools is followed or when any of

these four and the Shi'ah interpretations are compared. But the divergencies in law are not so great as to need (with perhaps one exception) any special mention in the context of this book. There are, however, greater divergencies in the practice of peoples. After all, law must always to a considerable extent be subsidiary to the spirit and customs of a nation. Islam has been embraced by peoples standing on very different levels of culture. The treacherous and ignorant tribesman of Makran calls himself a Mussulman as much as the witty and refined Persian. The luxurious and cultured inhabitant of Cairo is no more a believer than the half-naked pirate of the Malay Straits. Differences of manners have created abysmal differences in the actual application of the law and the treatment accorded to women in practice. Moreover, wholesale conversions have led to customs being tolerated in certain Islamic societies which are alien to the teachings of their religion, just as in Christianity the pure Evangel was distorted to suit Latin or Teutonic converts. In India, for instance, the vast majority of the Mussulman population consists of descendants of Hindu converts and in consequence much of the spirit of Hinduism still lingers in the manners and customs of Indian Mohammedans. In certain cases, as among the Molesalam nobility of Western India, Hindu law is actually applied in what amounts to supercession of Islam in certain matters such as succession. But in Mohammedanism the case does not stand quite as it does within Christianity. The Christian gospels were the expression of a new spirit but gave next to no instructions that could have the effect of law. The field was therefore open to extraneous legislation as long as it did not conflict with any of the few direct utterances on the same subject.

In Islam, however, the law is as a rule distinctly stated. Custom can therefore prevail only as long as it does not directly conflict with these directions. When a case actually comes before a court, the authoritative declaration of the commandment of the Qor'an must be decisive.

The first thing to be noted in the Mussulman system is that from the beginning full rights over property were accorded to women. Not only is a woman secured in the undisturbed and uncontrolled enjoyment of all property that she has earned and of all property she inherits, but she is also guaranteed fair maintenance from her husband while he lives and definite and equitable succession in his property when he dies. This has been the settled and unchangeable law in all Mussulman countries for thirteen hundred years. In England until fifty years ago a married woman could own no property at all : and even now in England she can claim only small maintenance from her husband while he lives, and is liable, when he dies, to be turned adrift without a penny in her old age, however great his property may be. In England the law is harsh to the legitimate wife : in Islam it is tender even to the unmarried mistress. The concubine and her children have rights of maintenance and succession as definite as those of the legitimate family.

As the woman is a free individual with the same claims to justice as a man, so also under the sacred law does she enter upon matrimony as a free contracting party.

It has already been stated that Mussulman marriage forms a contract like any other. Although under the contract the wife is in some respects subordinate to her husband, yet she is so only in the sense and to the extent that two equal personalities may be subordinate one to the other, in, for instance, the public service, without

thereby lessening their independence and their rights in other matters. Her legal capacity is in no sense sunk in that of her husband. On the contrary, she continues to be as free after marriage as she could have been before in everything which relates to her own legal existence as a person. She retains the same powers of disposing of her property and of entering into all contracts. She may even enter into contracts with her own husband, and is entitled to use her property just as if she were not married. Moreover, the consent of both parties is absolutely essential to the contract which constitutes marriage. On this subject both sects and all the legal schools are agreed, and the jurists have gone into the strictest detail in the regulations they have drawn up to ensure that consent is truly and freely given with full understanding of the facts. Understanding, puberty and freedom are conditions required by the law for the validity of a marriage contract. When a contract of marriage between minors is made for them by their parents, as happens in the actual conditions of society in some countries, it becomes valid only if it is ratified by them at the age of puberty, and this ratification must exist before the marriage can be considered complete. In the marriage contract clauses may be added embodying conditions which are not immoral or directly contrary to public morality. Thus, for instance, stipulations are frequently added that the husband shall not contract a second marriage during the continuance of the first, that he shall not absent himself from the conjugal domicile beyond a certain length of time, or that he shall maintain his wife's children by a former husband. Whatever the conditions, however, they must be fully understood and freely assented to by the parties. The consent may, in the case of a girl marrying for the first

time, be given only by implication, as, for instance, by smiling or nodding, but in other cases the consent must be expressed in words in order to ensure that it is voluntary and is based on full understanding of all the circumstances. Some schools of Mohammedans have gone so far as to prescribe that it must be given through a legally authorised Wali or representative. Further, it is compulsory to contract for a Mahr or dower to be given by the husband to the wife. This dower is an obligatory payment which the husband must make to his bride and without which the marriage would be invalid. From the moment of marriage the wife obtains immediate rights over the dower, or over that part of it which has been defined as “payable on demand,” or to use the ordinary legal word, “exigible.” That the dower is considered as falling under two heads or divisible into two portions is due to a general custom which prevails in most Mussulman countries. The custom is to pay a portion, usually half, at marriage, and to leave the balance or deferred dower to be paid when the marriage is dissolved, either by divorce or death. By this method a sort of penal sanction is kept hanging over the husband’s head to ensure that it shall be to his interest to treat his wife well. In India there is also a complementary custom by which the wife on her death-bed, if she predeceases her husband, “forgives” or remits the balance of the dower due to her, or in other words, deprives her heirs of that sum in favour of her husband. But so strict are the provisions in regard to the dower, that the wife is not even allowed to stipulate before marriage that she will abandon her right to its payment.

As marriage is a free contract, so also is its dissolution regarded as in the first instance as matter for the parties.

In general it is assumed that divorce will be pronounced without the intervention of the courts and that a court will be invoked only as a last resort, when for some reason or other the parties are not of one mind regarding divorce. As, however, in spite of the safeguards intended to secure justice and kind treatment for women, the husband is regarded in what must be allowed to be a natural way as the head of the family and the senior partner in the union, so the procedure normally provided and expected is that of a divorce obtained through repudiation by the husband. This is *talaq* which, in this shape, lies exclusively in the hands of the husband, except in those rare cases when a man has in the marriage contract expressly bestowed a similar power on his wife. It is in this form regarded as a natural corollary of the marital rights invested in the husband. This power of divorce may, of course, be abused. It is abused among the Arabs of Najd, and curiously enough most frequently and grossly among the Waliabis, that conquering sect of Puritans who have done so much to make life intolerable in Arabia by the suppression of ordinary enjoyments, but who apparently find compensation in secret and sanctimonious sensuality. Ibn Sa'ud, their sovereign and leader, for instance, is stated to have so manipulated the law to his own purposes as to have in turn wedded and divorced a hundred women. But in general in Islam the power of divorce by the husband is sparingly used. The Prophet had himself declared that divorce, though it was lawful, was of all lawful things the most hateful in the eyes of God; and the widest followed of the four "Pillars of the Law," Abu Hanifa, has also declared that divorce is not lawful unless there is strict need of it. And such need, he has declared, arises only (apart from certain definite clauses) when there exists



incompatibility of temper or in particular such a settled aversion as must necessarily lead to disobedience to that law of God which includes the duty of constant cultivation of his wife's love by the husband. In most countries the practice of Mohammedans accords with these principles, and except in the nomad tribes of Arabia arbitrary divorce by the husband is seldom used. It is possible that the mere knowledge that divorce is so freely obtained, acts as a restraint against incidents which might render it desirable. But it certainly is easily obtainable, for not only can it be given by the husband on his own motion : it may also be effected by mutual consent or by a judicial decree.

A divorce by mutual consent under Mohammedans is known as *Khul'a*, and is usually obtained by the wife renouncing part of her rights to the dowry settled upon her in the marriage contract. Once such a divorce has taken place it cannot be revoked, as repudiation by the husband may in certain circumstances be. The right to a full divorce belongs to the parties themselves, and the consent of the guardians is not necessary even in cases where the man and wife would not have been able to contract a valid marriage without such consent.

Dissolution of marriage by judicial decree, *mubarat*, is almost invariably at the suit of the wife. This naturally follows, since the husband already has the right to divorce without intervention by a court if he so pleases, and since a divorce can also be validly arranged and made by the mere consent of the parties. It is therefore only when the wife wishes a divorce and the husband refuses to give it that a case need come to court. This method of obtaining divorce by decree is based upon a commandment revealed by the prophet—"If a woman be prejudiced by a marriage, let it be broken off."

The grounds on which a court is bound to decree a divorce are various, but fall in the main under one or other of three groups which may be called religious, ethical or physical. On the first ground the abandonment of their faith by either of the spouses in and by itself cancels their marriage as from that time. In fact, not even a judicial decree is needed, the marriage simply ceasing to exist and the decree being at most a convenient way of registering the fact. Among the grounds which involve moral suffering the following suffice for a judicial decree of divorce. If a man force his wife to beg for her living ; if he treat her cruelly ; if he introduce a concubine into their domicile ; if in his speech he should ever liken his wife to a relative within the prohibited degrees, a turn of phrase used in the East to signify the ending of conjugal relations ; if he should neglect the duty of agreeable companionship ; or if he should ever charge her with being unfaithful unless he has the testimony of four eye-witnesses ; if any or all of those things should have happened, the court is bound to decree a divorce. On the physical side, also, the law is equally strict and protects the wife in her essential interests as she is not protected in any Christian country. Not only is the wife entitled to a divorce if the husband is or becomes impotent as is natural, but she is with no less equity entitled to it if he has abstained from loving her sexually during four months, if he abandons her or refuses to visit her, or if he deprives her of clothes, does not provide a suitable home or leaves her without subsistence. In a word, the Mussulman husband is forced by the law to provide for his wife's comfort and well-being, physical and moral, in all respects both as mate and as companion, or else to see the marriage dissolved irrevocably by a decree on her petition.

The actual letter of the law is reinforced by other texts, persuasive or minatory, and by the whole spirit of Islamic teaching. Happier than Christianity in this respect, Islam was never exposed to privative puritanical influences except perhaps in the last hundred years through the Wahabis : it never bowed the head before the curious notion that renunciation of the pleasures provided by the Almighty could be pleasing to the Lord : it never was tempted to preach virginity as a supreme good or announce that celibacy was higher than marriage. Islam, like Christianity, foretells a sensuous heaven after death ; but, unlike Christianity, after reciting the delights of seeing city walls garnished with all manner of precious stones and twelve gates of pearls and streets of pure gold, " as it were transparent glass," it does not stultify the effects of anticipation by excluding that pleasure which for most of mankind is by far the intensest and the most tempting. On the contrary, the believer is expressly buoyed with the belief that magnanimity, justice and courage, charity, truth and devotion in this world will be rewarded in the next by the constant and ever-fresh caresses of loving tenderness and beauty or of youthful vigour and virility. For the conduct of this life advice is most often addressed to the husband or with impartiality to both. The number of passages is indeed noticeable where man and woman are both expressly mentioned on equal terms in the exhortations to a good life. In the Christian gospels and homilies it is usually the woman that is exhorted. She is unceasingly commanded to cherish her husband, to obey him as her head, to be submissive and so on. In Islam the emphasis is decidedly on the other side. Though the Qor'an repeatedly emphasises an essential equality in men and women by addressing the same injunctions to

both to lead a good life, yet it is the husband who is enjoined to be just to his wife and to love her. In a well-known text<sup>1</sup> men are reminded in homely but forcible language that their wives are to them as his fields are to the ploughman. If a husband in a cultured Mohammedan country neglects his wife, he is at any rate without excuse. And it can be said that such neglect occurs seldom, much seldomer certainly than in any European country.

It must also be stated that prostitution nowhere in the Mussulman world attained the dimensions nor, it may be added, the irretrievable degradation that it has done in Europe and some Europeanised countries. It may be admitted that there now are brothels in Cairo, in Algeria or in Constantinople as odious as any in the West. But those towns are agglomerations of cosmopolitan humanity at its worst and those phases of prostitution are governed by influences other than those of the Crescent only. Outside of those and a few other similar cities prostitution is much less extensive and, where it exists, is in some measure more humane. That marriages are contracted early in life in itself lessens the need : as marriages are usually happy there is less temptation : and the pressure of the whole of public opinion and of religious teaching collaborate to condemn fornication. Islam as a whole views sexual union as an act of overpowering and permanent significance. It is therefore inculcated in the most moving and earnest language that by having intercourse with a woman even once the man takes upon himself grave responsibilities, of which he cannot divest himself, for her sustenance and for any possible offspring. He is allowed no excuse

<sup>1</sup> Sura 2—"The Cow" : "Your wives are your field : go in therefore to your field as you will." See also Sura 30—"The Greeks."

for regarding such an act as a trivial or transient matter. He is never inured to the paradox of Christendom which regards all sexual enjoyment as something so vile that it can be made tolerable only by marriage, or else must remain so sinful that from it no claim to justice or to recognition can arise. Hence, where Islam has escaped the infection of cosmopolitan vice, most of the men have in all probability never had anything to do with a prostitute and, to such extent as women of the class exist, they approximate more to the type of *demi-mondaine* than to that of exploited white slaves. There are, that is to say, in every Mussulman centre of gay or artistic life some "dancing girls" or singers who have chosen an independent profession and support themselves by their art. These girls naturally always have lovers and in some cases the lovers follow each other in rapid succession. Sometimes they may even be entertained at one and the same period. But these girls are not degraded. They fill a recognised and almost a respected place in social life. They have excellent manners, and are pleasant companions at a dinner or an evening party, where they conduct themselves not only with propriety but with grace. Their friends are often men of the first distinction. They occupy good houses, keep servants and engage regular musicians and accompanists. Moreover, in Mussulman countries their profession does not forbid their marrying in the end, when they have had enough of art and freedom and feel like settling down into home life. Not uncommonly does such a fascinating dancing girl after years of gaiety and applause decide to take the veil, not in order to enter a nunnery, but to step into a rich man's *zanana* as an honoured wife. In India, for instance, even ruling chiefs of Native States have been known to marry as their sovereign lady one

who, just before, had been upon the town as singer and light-of-love; and the son of a courtesan has not unseldom sat upon the throne of princes. Not only among the greatest of the land, but also among classes more stable and less impulsive—among moderate country gentlemen, for instance, or high officers of government—one finds occasionally marriages of this kind; and the quiet, sweet-mannered, old lady who does the honours of the inner apartments, may, a few years before, have danced in the small hours of the night before private parties of lively and profligate young men.

That a veil is worn by every respectable woman is, however, one of the main grounds on which the Mussulman system has been censured. It is alleged, not without reason, that enforced seclusion engenders ignorance and that the ignorance of the mother in turn reacts upon the children. It has even been alleged that this custom (which is usually confused by its opponents with polygamy) is at the bottom of the national stagnation which overtook most of the Mohammedan countries but which dates in fact from the Tartar conquests.

It can, indeed, be hardly denied that the custom of *hijab* or veiling and that of the seclusion of women have in the course of centuries in almost the whole Mohammedan world been carried to an excess as pernicious as it is unjustified. Nothing can be more terrible, for instance, than this custom as it is practised in some of the districts of Central India. There the Mohammedan population is in general miserably poor and wretchedly ignorant. The majority are weavers, or petty farmers, or poor craftsmen, or merely day-labourers. Their homes consist usually of only one small dark room with a kitchen. Their girls are married at the age of fourteen or fifteen to some boy selected by the parents, Hindu

influence in this respect being more powerful than the law of the Qor'an. Thereupon from early girlhood the woman remains a prisoner within the precincts of this narrow space, condemned to this confinement for no crime and at the mercy of one jailor, her husband. She sees nothing, she knows nothing, she reads nothing. In one small room she sleeps, she sits, she washes, she cooks : in the same small room she has her children, nurses them, watches them die : and in the same dark cell she will herself in turn pass away. Small wonder that the race degenerates and that to one puny nerveless generation another succeeds equally nerveless and equally apathetic. But terrible as such instances are—and they are tragically numerous—it would be absurd to suggest either that they are universal or that they are inherent in the system. Even in India itself, the sturdy peasantry of the Punjab districts have wiser habits and in Gujar Khan or Rawalpindi the wife of a soldier-farmer and the mother of soldier sons walks openly beside her husband to the fields or market. The Anatolian peasantry who have for centuries been the backbone of the Turkish army and have always won the admiration even of their adversaries are the offspring of healthy women not enslaved nor imprisoned. The original words of the Qor'an on which, especially as the result of engrafting similar Hindu custom, so many excrescences have unhappily grown, are simple enough and merely counsel that women should not display their ornaments to men. They constitute a reasonable admonition to restrained behaviour and modesty : for it is not desirable that women should rouse envy in other women and concupiscence among men by elaborate displays of artifice or adornment. At the utmost extension of the precept compatible with reason, the phrase

could not amount to more than an injunction to wear a veil over their faces when they walk among strange men. But the stupid jealousy of husbands, especially in barbaric periods like those which followed the Tartar invasion, has added one restriction upon another in defiance of the original text and of sense and reason. In rich and aristocratic homes, of course, the results have not been so serious: and seclusion, though it is hardly defensible when rigid, is not particularly galling when it is mitigated, as it often is, by constant drives in beautiful carriages, by large flowering gardens in which to walk, even perhaps by tennis-courts within the walled enclosures, by many servants and by constant visitors. Moreover, in such families, as, for instance, among the high officials in Cairo or the nobility of Hyderabad, the ladies are well-educated and enjoy reading the poetry of their own country or of Persia. It is when strict seclusion is imposed on poverty that it becomes a real abomination and a plague upon all whom it touches. That it will quickly cease to exist, in such a form, in any country and that the whole Mussulman world will soon be enabled to abandon those exaggerations must be the hope of all who have learned to appreciate the merits and benefits of Islam and who look back with fondness and gratitude to many happy years with true and trusty Mussulman friends.

Polygamy, it need hardly be said, is not in reality the bogey that it may seem to be when it is viewed in a country vicarage or a little Bethel. First of all, it must, of course be obvious to any one who thinks for a moment that it can exist to a limited extent only. In the countries of the East at any rate there are not enough women to go round for one thing. Then, few men can afford more than one wife in any country. In modern



Europe apparently they cannot afford even one ; and until well over thirty most men have to content themselves with a few minutes' share of some woman once a week or so. And even in the East few men willingly face the trouble which is almost bound to occur when two wives are brought under one roof. In general, therefore, polygamy must in any case remain the privilege of the rich and audacious. In India it has been calculated that not more than one Mussulman in a thousand has a second wife. In the Islamic law, moreover, and it must be remembered that the law is regarded as sacred, the use of polygamy is hedged around with conditions and limitations. A man is permitted to marry as many as four wives. But stress is laid upon the union of one man to one woman. To marry others is permitted only if the man can say with a clear conscience that he feels the need, and if he is certain to be able to treat all his wives with absolute impartiality in every respect. It cannot be said that every man who marries more than one wife carries out these injunctions. The luxurious and the vicious are not the monopoly of any one country. They are found under Islam as they are found under Christianity. But it is true to say that no Mussulman who respects his religion (and most Mussulmans do), ever marries another wife without many searchings of conscience and without taking every care to avoid showing his preference for a favourite.

That polygamy is an ultimate ideal, few would be found to assert. The lifelong intimate companionship of one man with one woman appears undoubtedly to be that state of happy perfection to which one must expect humanity to aspire. But at the present stage of development few indeed are those who even in a moment of

youthful reverie can dream of reaching such a consummation. Unnatural conditions of every kind, a defective education, sordid temptations, the whole mean shabby outlook on that which should be the flowering splendour of human life—a hundred miserable reasons combine to render real monogamy or any fervid permanence unobtainable in life. It may well be claimed that polygamy, so limited and so mitigated, in the countries in which it exists, is less harmful than what too often passes as monogamy.

On the whole there is no doubt that both in cultured Mussulman society and among the healthy peasantry of true Mussulman lands, married life is exceptionally easy and happy. The husband tends to be uxorious and is not infrequently a trifle “henpecked.” But this is a weakness which can hardly be considered a fault and which seldom mars the felicity of a home. What is certain is that in almost all cases the husband seeks every occasion to be with his wife and rushes back from his work at the earliest opportunity to the inner apartments where he will find her waiting. Mussulman men fly to no clubs for relief from boredom nor find their cheeriest moments when they are with other men or playing games. For the Mussulman the best of life begins only when he is alone with his family. That both man and wife are convinced that the enjoyments of love form the best of life’s pleasures, and that they should therefore be studiously pursued and heightened, is hardly a drawback from the point of view of mutual happiness. Their relations combine a sense of independence derived from the possibilities of divorce and the rights to property of women with a real devotion and affection arising from the pleasures of which they partake together. Only education and wider interests still

require to be more generally added. Unfortunate marriages are rare among good Mussulmans ; and in general it must be conceded that the precepts of Islam have acted admirably upon the domestic felicity of its followers.

## CHAPTER XII

### CHRISTIAN MARRIAGE

**W**HEN he approaches Christian marriage the enquirer finds himself surrounded by difficulties far greater than those which met him in his exploration of the rules imposed upon sexual intercourse in other religions. In Buddhism religion had disinterested itself from matrimony : it was left to civil authority and civil custom to regulate it as it pleased. In Islam, on the other hand, the law of marriage was an integral portion of God's commands : but it was stated once for all with detailed lucidity. There was no room for difference of opinion except on subsidiary points. In Christendom, however, religion soon claimed marriage as its own ; while, on the other hand, there was no word of systematic or detailed exposition in the Evangel. The Church made marriage its province ; but there were no directions revealed for its government ; and a code had gradually to be composed. Two or three phrases of general import tending to mitigate the rigour of Jewish law in regard to the relations of men and women were all that was extant from the lips of its Founder. For anything that should bind or guide the conduct of its adherents in their marriages and regulate their responsibilities and duties or decide their disputes, the Church had to depend upon its own wisdom and the constructive imagination of its bishops and councils. Even the first principles it had to deduce

from the general spirit of Christianity ; and from these bare principia evolve with as little inconsistency as possible and with as much appropriateness to altering environment as could be achieved the manifold regulations that must always be required on such a subject. For matrimony is a matter that is necessarily complicated in any society which is raised beyond the most rudimentary conditions.

It took more than fifteen centuries for the theory of Christian marriage to receive its final and authoritative shape in the Catholic Church. What had been begun by Saint Paul ended with the Council of Trent. Throughout these centuries the ideals and practice of Christian marriage, as taught by the Church and enforced either by the Ecclesiastical courts or by the civil power, had varied in the most important particulars. What was right in one century was not right in another. And, when the various regions of Europe are surveyed, it appears that the application of these laws depended not infrequently upon their latitude. But though the Catholic Church was the main it was not the only stream of Christian faith. The Eastern or Greek Church had early varied in not inconsiderable matters from its sister of the Vatican. It remained, however, a Catholic Church with similar traditions, similar ritual and a similar spiritual and temperamental appeal.

But Protestantism stands upon entirely different ground. The principles in regard to social morals with which one is familiar in the Catholic Church were only being formulated in their final shape when Protestantism was born ; they might have developed further ; there was indeed every likelihood of their wider extension and further rationalisation under the afflatus of the Renaissance and the breath of Grecian liberty. But Luther

nailed his theses to the church door of Wittenberg in 1517, and the impact of Protestantism stopped all further movement. After the death of Clement VII in 1534 there followed a series of narrow and disciplinary Popes. Spanish influence prevailed at the Vatican, and there was the counter-Reformation within the Church as there had been the Protestant Reformation outside of it. Protestantism itself was a doctrine of revolt; it was a revolt of the North against the South; of grey skies against blue skies; of fog against sunshine; of crudity and simplicity against refinement and subtlety. Protestantism was the revolt of turbid and literal faith against reasoned elaboration and constructive interpretation; of individual judgment against authority; of individual inspiration against collective tradition. It neglected all that had composed the grandeur and the splendour of the Holy Catholic Church; all the ritual: all the music: all the poetry; all the corpus of procedure and principle: all the digest of judgments and interpretations. It left itself nothing except those narratives of the Evangelists, those letters of Saint Paul, and those books of Jewish history, Hellenic-Jewish eroticism, and Babylonian mythology which it styled the Word of God. Those scriptures the Reformers took as they were without annotation, without interpretation and without commentary; they left it to each man or woman (at least in theory) to derive as best he could by the dim light of private judgment such rules of life as were to be gathered from their mixed contents. It had taken the united and trained intellects of an organised Church sixteen centuries to discover and express those principles which should govern the practice of Christian marriage. On the theory of the Protestant Reformers it should be possible for any ignorant peasant with the aid of a Bible

and by grace to determine them for himself in a few hours. Given the right amount of faith or self-confidence, presumably every tradesman should be as capable as the most erudite Ecclesiastical lawyer to decide when a marriage is nullified by a prohibited degree or what proof is required in a case of illegitimacy or disputed legality. What is clear is that from the date of the Reformation there is in existence a religion comprising many sects, which also bears the name of Christianity but which in nearly every other respect than its acceptance of the divinity of Jesus, and sometimes nowadays even in this, is different in spirit, conception and practice from what before that time had been Christianity and is still the Catholic Church. A further complication is therefore introduced into the picture of Christian marriage. Not only did it change and evolve within the Catholic Church itself during many centuries : but side by side with this concept of marriage there has in the last four centuries been another in the Protestant Churches, which is based upon principles that are profoundly different. The difficulties in dealing with Christian marriage are therefore greater even than those which were found in Hinduism, for in the latter, though there are many types of marriage appropriated to different castes, yet for each caste in turn it is possible to describe the law or custom with fair accuracy of definition. But in Christianity there has been nothing static, nothing definite or fixed ; marriage varies and has varied according to country, time or creed.

Christianity had begun as a reforming Messianic movement within the Jewish people and the Jewish faith, and the followers of Jesus did not at first seek to supplement the existent rules of Jewish marriage. Judaism had not taken a particularly high view of

womankind. Under the Jewish dispensation woman was very definitely placed under the authority of man : polygamy of course was allowed : the right of divorce rested with the husband. A high level of chastity was expected from the woman both as a girl and after marriage : nothing was tolerated that could lead to dilution of the race : and the punishment of sin was deadly. There was no idea of equality of the sexes or of liberty for the woman to live her own life. The fault of Eve was still held in remembrance and the curse of Lilith was not forgotten. But there had been heroines in Jewish history : one of the loftiest of Judah's festivals kept forever alive as a light to her people that Esther who has since been exalted for all time by the moving and noble poetry of Racine in that magnificent drama, in which the glory of France stands beside Sophocles at the empyrean of human genius : and Jael and Judith were like pillars of fire before the eyes of a proud and astute people. Nor were the books of their revelation wanting in examples of pure women, of devoted wives, of inspiring mothers : and Leah and Rachel, Rebecca and Sarah were names that kindled the familiar veneration of every child of the race and fed the flaming zeal of every household. That in the practice of Jewish life women enjoyed a status elevated much above the level of the law, there is no reason to doubt and there are many indications to corroborate.

Thus also to this day where the Jewish faith persists, the treatment of women is notoriously kind and generous, and Jewish family life presents pictures of domestic concord and emotional expansion which are often sadly wanting among the surrounding populations. Especially is this the case in those countries of Eastern Europe, where among Christian and Jew alike religious belief



is stronger and exercises over conduct an influence greater than is readily apprehended in the more sceptical and scientific peoples of the world. Even in Hungary, for instance, the most advanced and cultured of the countries east of Germany, a striking contrast can be observed between the treatment of Christian and Jewish ladies. For it has to be admitted that the ladies of Christian families, with possible exceptions among those that belong to the rich more or less cosmopolitan aristocracy, are confined to their homes and husbands in a mortifying degree. The married woman of the Hungarian upper middle class when she is Christian, whether her husband be a nobleman, a country gentleman, a member of Parliament or a professor, is expected to be a housewife first, last, and all the time. She has to supervise the servants, to look to linen and mending, to cook or see things cooked, and, in a word, to work all day so that her husband can have his meals in comfort and grumble peacefully at home. She marries when she is still a young girl, but she is not expected to study further or interest herself in art or science. She is not even allowed the ordinary amusements of her age. The young girl who has just married must not dance at balls; she goes of course to no cabarets or *thés dansants*; she has no clubs; she is not invited by herself to restaurants or picnics on the river or the other hundred separate amusements of the French or English lady of her position. The restrictions are severe enough upon the Catholic ladies of the kingdom. They are more severe among the families of the Protestant gentry—now since the War the chief social factor of the capital. Among them a harsh and motived puritanism is superadded to what was rather the effect of conservative custom and want of imagination among the Catholics.

But in the Jewish families of the same upper middle class the women admittedly occupy a position far more enviable. They are conceded a right to enjoyment which is denied to their less fortunate sisters and obtain a liberty which in the eyes of their stricter neighbours sometimes degenerates into licence. A husband of the better classes expects to find in his wife not a house-keeper (for such he engages and pays separately if required) but a helpmate in his affairs, a companion in his interests and a participator in his love. He wishes her to be always fresh and ready for pleasure, to be clean and well-dressed and attractive, and he knows he cannot expect this from a woman who has to toil and work and sew and cook. Above all, he wishes to have amusing talk, interesting discussion, cheerful response, ready encouragement. And he is not fool enough to suppose that anyone, man or woman, can command these faculties without the leisure to read and think and without the stimulus of travel and experience. The Jewish wife is therefore given these advantages, as far as his means permit, by her husband, and is accorded a freedom to develop her character and her powers that far exceeds the letter of the law.

The society in which Christianity arose was no doubt one which in essentials did not diverge greatly from the spirit that still survives in such Jewish households. In the great emergencies of life the Jewish husband of that period also would demand the right to guide or rule and would exact obedience, but in the ordinary tenor of life he was good-natured, easy and even uxorious. There was not among the Jews the legal and technical freedom which Roman civilisation was at last accomplishing ; but neither was there in general the austerity or rigidity which an old-fashioned interpretation of the

law might have demanded. The Jews were many of them Epicurean, and the influence of Greek thought and manners was daily becoming more and more perceptible, especially in their upper strata; the Court was liberal and luxurious: and their self-governing colonies in the great ports of the Mediterranean, at Alexandria, for instance, or at Marseille, were centres of cosmopolitan culture and advanced thought which reacted upon the stay-at-home elements in Palestine and Jerusalem.

The early Christians began by following the law. But theirs was from the first a religion of the poor and the enslaved, of those who had no other hope except in a Messiah or of those who looked for the immediate coming of the Kingdom of God on earth. It was a movement of purification and of preparation—purification from sin and self-seeking, preparation for that day of judgment which was imminent. Christ Himself, as the Gospels show, never preached a message of joylessness or taught the rejection of those enjoyments which God had provided for his creatures. On the contrary, all His reported sayings show Him, as it were, illumined by a kindly cheerfulness, a quiet and pleasant hilarity. He regarded Himself as One sent to announce to mankind the glad tidings of their redemption and to open their hearts to a loving and joyous contemplation of that Kingdom of God which He was bringing to the sons of men. Thus it seemed right to Him that His disciples should feast and make merry. "Can the children of the bridechamber fast when the bridegroom is with them? as long as they have the bridegroom with them they cannot fast."<sup>1</sup> And the very essence of His teaching distils from the phrase that "the Sabbath

<sup>1</sup> Mark II. 19.

was made for man and not man for the Sabbath.” It is in the same spirit that Jesus was present at the Feast of Cana and exalted marriage by being a guest in a wedding party. For Him the licit love of bride and bridegroom was the most healthy, natural and right thing in the world, to be welcomed with merriment and good cheer. Nor did He hesitate to use His power in order to present a richer wine to the happy party. Christ was indeed kind to every manifestation of joyous human nature and indulgent even when sex and love had transgressed the limits and strayed into the paths of sin. He forgave the woman taken in adultery, for He understood the strength of the temptation and was aware that there were few of men or women who could keep themselves without sin. He forgave also without hesitation the prostitute who had faith in His mission, because her fault was redeemed in that she had loved much. It is more than probable, if the text is accepted as it is written in the Greek version, that He did not hold that even adultery was an adequate cause for divorce. In a word, as far as Christ occupied Himself at all with the things of sex, it seems clear that He pressed upon the scale of leniency in order to relax the old rigidity of the Jewish law. The love which lies in the hearts of man and woman was to Him a thing more valuable by far than the observance of any written law. But with sex He did not trouble Himself overmuch. It seemed to Him a thing too plain and natural. The tasks which lay before Him were concerned with things more difficult and more important—the rousing of men for the coming of God’s Kingdom, the call to them for a change of heart.

It was much, much later—long years after Christ had been crucified and raised from the dead—after the disciples had obtained the gift of tongues and had

preached the new gospel to many peoples—after the early epoch of communism when in the still small congregation “as many as were possessors of lands or houses sold them, and brought the prices of things that were sold, and distribution was made to every man according to his need”<sup>1</sup>—after the apostles had been imprisoned by that High Priest who was of the sect of the Sadducees—and after St. Stephen had been martyred and Saul had stood by with the clothes of those who stoned him—after, long after all this—and when Saul had been struck with blindness and had seen again and been baptised and had become Paul and a missionary in strange lands and had fought the great fight whether Christianity was to remain no more than a Jewish sect or was to be spread among the Gentiles and had won and had become old and bitter and was the flaming tongue of zeal and the iron rod of governance to that Church which he had established—it was then and then only that there is apparent in the new creed that view of sex which perhaps somewhat unfairly but not without justification is usually regarded as pertaining to Christianity. It is uncertain what ailed St. Paul, though inferences may be drawn from his regrets that “all others were not even as he was.” But it is evident that he lived all the time under the consciousness of sin. To him it seemed as if all mankind were from the first predestined to evil, except as they might be saved through grace. And always he feared that even men, upon whom the spirit of grace had so far come that they might hope through faith for redemption, were being dragged back and blinded by the desires and delights of the body. “To be carnally minded,” he writes to the Roman disciples, “to be carnally

<sup>1</sup> Acts IV. 34.

minged is death : because the carnal mind is enmity against God ; for it is not subject to the law of God, neither indeed can be.”<sup>1</sup> And of course, if all the desires and pleasures of physical life are evil, then the desires and pleasures of sex, being the intensest and most powerful, must be the most evil. It was only consistent therefore with this reasoning, even if it had not been naturally congenial to his temperament or infirmity, that he should rage above all against that attribute of sex by which God had divided His creatures into male and female. For it is through sex that men and women find their highest happiness on this earth, and to St. Paul any enjoyment in this life was yet another obstacle to the life everlasting. To pass through the world that God had created, among all the blessings that He had bestowed, with wailing and gnashing of teeth, looking neither to the right hand nor to the left, was the straight way to placate Him and merit His salvation. “ If ye through the Spirit do mortify the deeds of the body, ye shall live,”<sup>2</sup> was actually his considered counsel. One sees at once how far Christianity (or at any rate what was destined to become one party within it) had already moved away from Christ—from that Son of Man who had preached love and good will on earth and a cheerful acceptance of life.

With these views St. Paul could not be expected to do otherwise than condemn marriage. He does so without fail. The married care for each other and find in each other’s company a pleasure, which turns them away from that crying out to God which the saint wished always to hear from man. “ He that is unmarried,” he preaches, “ careth for the things that belong to the Lord, how he may please the Lord : but he that is married careth for

<sup>1</sup> Romans VIII. 6.

<sup>2</sup> Romans VIII. 13.

the things that are of the world, how he may please his wife.”<sup>1</sup> Hence, though St. Paul dare not assert that to marry or to give in marriage is directly a sin, yet he invariably lets it be understood that celibacy and virginity are more worthy. Marriage is only at best a way out for those who without it would commit worse evil. “It is better to marry than to burn,” he says, but he regards those who find themselves forced to marry with no better than a pitying contempt. It is good for a man not to touch a woman, that, in the end, as it was in the beginning, is his teaching; and such teaching, it cannot be denied, has been acknowledged within the Christian Churches, never definitely repudiated and sometimes definitely adopted and propounded.

The Catholic Church has to a slight extent modified the doctrine by preaching that the main purpose of marriage is to beget children, who will add to the number of Christ’s congregation and bring nearer the coming of the Kingdom of God. But a subsidiary purpose formally stated is to ensure by marriage against the deadly sins of adultery and fornication. The flesh is weak: and the senses have been created to tempt us to our destruction. Hence the Church has taught that, though strict celibacy is the best and holiest life under the Christian dispensation and virginity the ideal both for man and woman, yet sexual intercourse is not blameworthy in the weaker brethren if it follow upon the sanctifying sacrament, if it is intended for the procreation of Christian children, and if it is confined as far as possible to this purpose only. The Church has also taught that with one exception no pleasures may be indulged in by the married couple from which the birth of a child could not in normal conditions follow.

<sup>1</sup> 1 Corinthians VII. 32-33.

That in spite of the sacrament some element of impurity still clings to marriage, seems therefore to be the accepted view. The Church at least will not permit its eye to be diverted from the physical character of the union, nor allow itself to be amused by romantic phrases or enthusiasm. At the period of its strength it imposed the consequences of this view of marriage consistently enough on the people. It enjoined, for instance, that no married persons should take part in any of the Major Festivals, if they had had knowledge of each other on the previous night. It has also frequently been counselled that intercourse between man and wife should occur as a relief against discomfort and not in any unfitting spirit of self-indulgence, least of all with much thought by the husband of giving gratification to his wife. For curiously enough, though the Church enjoins on the wife to do what she can to please her husband, the husband is seldom advised to gratify his wife, but on the contrary admonished to avoid raising her passions and thereby of course her pleasures. It has to be added that the wife is enjoined to regard her husband as the head, and to be in all things obedient to him. Indeed, by a strange contrast with the freedom of the Pagan Empire, Christianity and the Feudalism which was nourished within it did all they could to lower the legal as they did the social position of women. The complete inferiority of the sex was continually maintained by ecclesiastics, and public opinion was habituated to the regular and formal sacrifice of wives' or daughters' interests. The lowering of opinion went so far that in the sixth century in the Council of Mâcon before an assembly of the highest and most learned dignitaries of the Church it was solemnly debated whether women possessed souls, and only by a majority vote were



they allowed the precious possession. As far as the teaching of the Church is concerned woman has no rights to be legally recognised. But fortunately in actual practice the influence of the priest on the individual husband has usually been exercised as far as possible to make life more tolerable for the woman ; while, at any rate, since the Renaissance of culture in Europe, in the addresses delivered from the altar after marriage, the husband is as tenderly advised to be kind and just to his wife as she to be dutiful and complaisant.

To such an extent, however, has this privative or ascetic theory in regard to marriage and celibacy penetrated Christian Europe and more especially the northern and north-western parts of the Continent, that one hardly realises how unnatural it all is, and how singular such a view has been in the whole history of mankind. Not until it was announced by St. Paul, had it ever been supposed by any considerable body of people that sexual indulgence in itself could possibly be evil or indeed anything else than what it was felt to be, namely, something that was very good. Of course, it was always recognised that it could be made evil in certain circumstances, as any act, however good in itself, may become evil, if it is misused at the wrong time or place. But of the general value of sex there had been no previous doubts. There have, it is true, been observances and abstinences at other times and places that derived from a sense of magical power connected in mysterious ways with the sexual functions. In some cases it had been supposed that indulgence of some particular kind invested the perpetrators with supernatural potency. In other more frequent cases, as, for instance, among various sects of Sadhu or Sanyasi—hermits and anchorites—in India, abstinence has been postulated as a

condition of acquiring superhuman and quasi-magical powers such as overcome even the deities of the Hindu pantheon. Similarly in Rome a magic fire required the ministration of Vestal virgins who had attained their magical value by the abnormal fact of virginity. But in all countries the accomplishment of sexual functions had been looked on as the normal and right way of ordinary human life : and marriage was in each country the regular and respectable method of accomplishing a thing in itself healthy, natural and enjoyable. What restrictions there were depended almost exclusively upon claims of property or possession and ultimately perhaps upon instinctive feelings of jealousy. Certainly, though in other creeds abstinence might occasionally be advocated in special cases for special reasons of a magical nature, or even as in Buddhism the transcendence of all desire of any kind be regarded as the supreme means of reaching that complete absorption in the universal spirit which is indistinguishable from eternal death, yet, until Christianity became what St. Paul made it, no other religion had ever suggested that, when sexual indulgence was not unlawful, it should not be as thorough and as frankly joyful as possible.

This perversion was never thereafter quite eliminated from the Christian world. There are periods during which it was suppressed, but it was always latent and in seasons of flux or fever broke out with redoubled violence. Thus one finds for instance Origen at the end of the second century castrating himself so as to be free once and for all of sex.<sup>1</sup> And not Origen only regards sex and even its organs as the stigmata of sin, but generally all the early Fathers concede to marriage only this, that it is a refuge from fornication. With the

<sup>1</sup> *Eusebius*, Book I, VI, 8.

growth of culture, of course, these crudities were decently removed or covered up, and the teaching or at any rate the practice in the Church became more consonant with the joyous simplicity of its great exemplar. But the Reformation was built largely upon the precepts of St. Paul, and its zealots in the colder north adhered to his doctrine that the deadliest of sins is to taste with gladness of the fruits of the earth and the delights of the body. Sex is thereafter a thing of shame in Protestant lands. Within the Church also after the Reformation there was a recrudescence of the Christianity that is Pauline under the stern Spanish militants who led the resisting forces. The Council of Trent, which sat from 1545 to 1563, was more than half Spanish—even the ecclesiastics who represented Italy were mostly of Spanish birth—and the leading papal lawyers who attended came from Spain. And in that country the Church knows no compromises and no compunctions—it is stern, relentless, overwhelming. So the Council of Trent placed it on record for all time as the deliberate view of Catholic doctors assembled after the Reformation to consider of the faith of Christian men, that all should be anathematised who claimed that the married state could be ranked above that of virginity or celibacy. It did not venture, however, to go so far as St. Paul had done: it did not regard all sexual manifestations as contemptible weakness. But, partly perhaps in order to defend a celibate clergy, it abandoned the sane and sound doctrine that due sexual intercourse, as it obtains in marriage, is essential to a complete and properly ordered existence and is in fact indispensable for the highest type of life.

This, however, was all for the future. Of definite rules for Christian marriage, even after St. Paul, that

great organiser, had instituted the Christian Church, there were still hardly any. It is clear that Christ in His teaching had disapproved of the power allowed to the husband among the Jews and especially one Jewish school, to divorce his wife under certain circumstances. As His words are repeated by St. Mark, Christ quite definitely forbade His followers to divorce under any circumstances. The prohibition is absolute. As, however, His words on the same occasion are repeated by St. Matthew in the version accepted by the English translators of the New Testament, there is one exception allowed. And that exception, as it is worded, is in cases of "fornication," by which is translated that Greek word *porneia*, which in homely English is called whoring. There has been endless controversy on the meaning of the phrase and many commentators since the Reformation have sought to build with it an Evangelical rampart for the general modern European practice of allowing divorce for adultery and the English practice of allowing it for adultery only. A candid and impartial student, whatever he might wish to find, can hardly regard such an interpretation as altogether satisfactory. Laying aside all question of the relative values of the two versions of Christ's words and of the authenticity of the exception allowed in the second version, it is clear that in Greek the word *porneia* never meant adultery. Read in the context and with reference to Jewish law and practice, it certainly would appear reasonable to refer the exception only to that Jewish procedure whereby an appointed contract of marriage could *ipso facto* be voided on proof of pre-nuptial unchastity by the affianced wife. Put into plain modern English it would mean that no man was bound to carry out a promise to marry if he discovered that his betrothed had already

misconducted herself. As, however, in most cases the discovery would not be made until after consummation and as Jewish law made no very clear distinction between the two stages which European procedure distinguishes as betrothal and marriage, it may be fair to assume that the exception would also cover immediate repudiation after consummation and that a marriage might be declared null and void, if it was already vitiated by such misconduct. In other words, the exception may be a valid authority for declaring the nullity of a marriage under such circumstances: it is difficult to see how it can reasonably be held to authorise subsequent divorce for adultery. There are, however, profounder grounds for holding that divorce for adultery was never contemplated by Christ. Throughout His teaching His aim was always to exalt the spirit. The letter of the law, the detail of conduct, the forced compliance of the flesh, these are things with which He taught that man should not be too much concerned. What was of concern was the intention that inspired, the thought that led, the heart that was full. It is a belief hardly tenable, that Christ should have taken a view of marriage so narrow and (if it may be said without disrespect) so earthly, as to command that alone for a physical act—perhaps one single accidental physical act—it might be repudiated, while holding that for no other wrong, no spiritual injury, no breach of unity or heart could it be sundered. Marriage was from God: men and women were joined and made one in God: their union was made once and for all: disease or madness could not loosen it: crime could not sever it: bickering and disorder and anguish could not end it—and should this bond, strong as fate and firmer than steel or adamant, break or be burst by this thing alone,

that the woman's body had once sinned ? There would be no place for repentance : no room for conversion or regeneration : one act should be, as it were, the crack of doom. The thing is incredible : it is not deducible from the words : it is inconsistent with all we know : it is contrary to the Christian spirit.

This conclusion is strengthened by the deliberate phrases of St. Paul. St. Paul in what he writes about marriage is careful always to distinguish, where it is necessary, between what comes from God and that which is his own opinion or counsel. And St. Paul has no hesitation in saying that divorce can under no circumstances be allowed, though he appears to contemplate separation in certain contingencies. The one apparent exception in regard to unbelievers is, of course, easily explicable and need not be discussed here. That for St. Paul the prohibition of divorce was absolute, can hardly be doubted. And there is no reason to suppose that St. Paul was anything except accurate in what he definitely states to be Christ's teaching.

What, it seems, must therefore be accepted as conclusive is that by Christian teaching any true marriage must be indissoluble. Consistently with faithful Christian belief there should be no divorce from a marriage once lawfully performed. There may perhaps be separation allowed when the circumstances render continued life together intolerable, but such separation can give no right to re-marriage. But, of course, if what seemed to be a marriage, was in fact no marriage at all, then it continued to be no marriage, whatever it may have been assumed to be. There will always be some cases where what pretends to be a marriage turns out on enquiry to be a fraud or a mistake and where the seeming union must therefore be annulled. And

obviously in a case of nullity there can be no impediment to the future marriage of either party, if otherwise allowed. If it proved convenient to establish a court at any time to examine into such cases and issue decrees of nullity, when in fact there never had been a real marriage, this had nothing to do with any doctrine of divorce but was a mere matter of common sense. Divorce where a real marriage existed—and a real marriage implies consummation as well as other things—there could be none.

There are few other more or less definite teachings about Christian marriage that can be extracted from the Gospels. There is the well-known passage in St. Paul's writings in which he forbids the supervisors of the young congregations to have more than one wife—a passage which implies that laymen were so far not prohibited from following the Jewish custom of polygamy, if they wished, even though sexual union of any kind was in principle discountenanced. And there are a number of passages which without going into clear legal detail insist upon the subjection of the wife to the husband. Such must in any case have been the attitude of those early congregations, for the Jewish law had been such, though the practice of Jewish households has been kinder. Besides, St. Paul was a contemner of sex; and the Gentile congregations were of poor, tired, down-beaten labouring folk, slaves often who had suffered blows at the world's hands and could have power only in their own miserable homes. Female subjection was emphasised all the more, because it was contrary to the practice of the civilised and pagan Romans, of that well-fed, comfortably easy, cheerfully frivolous plutocracy, at which the newly chosen glared with envy and which they hated, hated with the bitterness of the

weak and wretched, which they hated with every drop of their thin, unnourished blood, with every fibre of their flogged and sweated bodies. The Roman lady in her silks and furs, her cushioned litter, and her comfortable carriage, with her profane stories and her light poems, her perfumes and her cosmetics, her lively dinner-parties, her literary *salons* and her theatrical nudities was free—she was man's equal—she owned property—she could claim divorce—she owed no man subjection. And she was the accursed thing, the painted Jezebel that they hated—the harlot for whose pleasure they had to labour—who wore on her back or consumed at her table the fruits of their toil, the profits of their ailments and fatigues, their broken bodies and their mutilated limbs. Of that sort should not be Christian women, the women of the Chosen ! To their husbands should they owe obedience. And they should not be free : but rather should they toil when the man toiled, and be in labour when he toiled no more : be watchful when he watched, and when he rested : be vigilant and faithful in all things : and at the end of all know as reward that they had been created inferior from the first, and from the first had been the curse of man.



## CHAPTER XIII

### CHRISTIAN MARRIAGE AND THE CHURCHES

THE practice of Christianity was never in all respects consistent with those ideals which appear to have very early been counselled or enjoined. There were serious doubts in the minds of the Fathers on nearly every point of interpretation : and disputes were bitterly waged in the primitive Church which have not yet found a solution. The precise application of the ideals advocated to the actual facts of civic life was not easy to discover and allowed much margin for argument. To discuss every variation of doctrine and practice is the province of the ecclesiastical historian, and the recital of a multitude of decretals, penitentials and resolutions of councils would be as prolix as it would be uninteresting.<sup>1</sup>

There are, however, some leading features in the development of Christian marriage or, to be more accurate, in the theory and practice of marriage as enforced by the Christian Churches, which cannot be passed without remark. It must be noted, for instance, that polygamy or more correctly polygyny, the wedding of several wives by one husband, seems to have endured as a practice in Christianity for six centuries. That

<sup>1</sup> The curious enquirer will find an admirable and well-written summary in a note written by Mr. De Montmorency, the secretary of the Divorce Commission, which is printed as an appendix to the Report.

monogamy did become the definite rule of the Church, appears in fact to have been due to the influence of Greece and Rome. Both in the Greek cities and in the Roman Republic and Empire marriage had always been monogamous. To the people of the Eastern and Western Empires the Jewish practice of one husband marrying more than one wife was repellent. As Christianity spread among these populations, more and more converts entered the fold who disliked polygamy : and the practice was finally abolished in response to the public opinion of the most cultured and gradually the most numerous of the new Christians. It is not always remembered that Luther and the Reformers for the most part were prepared to revert to the old practice, and generally approved of polygamy, where good reasons for it could be stated by the husband.

It may be noted also that, though the idea that marriage is a sacrament was finally accepted by St. Augustine, yet for one thousand years no benediction by a priest was legally required for the validity of a marriage. The truth is that in the Western Empire the Church had at first quietly acquiesced in the Roman legal concept and practice of the " formless " marriage, as modified in those Western Codes which combined old Roman law with local usages. The Council of Laodicea (A.D. 375) did, it is true, prohibit the priest from giving his benediction to parties in a private house. After that date, when it was given at all, it was within or just outside of the church, the most frequent place being at the porch. After the fourth century and up to the tenth, it became more and more usual for the newly wedded pair to attend a service in church and to partake of the sacrament. But the benediction was not required ; a promise mutually given before witnesses was sufficient

for marriage, as it still is in Scotland : and to seek a benediction was merely the natural tendency of religious parishioners. A bridal Mass was, however, instituted by the Church, and between the tenth and twelfth centuries an elaborate ritual was developed in which the priest directed the entire celebration. The nuptial ceremony then took place before the church door and the bridal Mass followed in church. But it is not until the thirteenth century that the new phase begins in which the priest "joins" the parties and real ecclesiastical marriage is instituted.<sup>1</sup>

The greatest variations in opinion and practice occurred, however, in respect to the problems of divorce. The main thing to note is perhaps this, that for many long centuries it did not occur to the Church that the settlement of the divorces of its married followers should be a matter for ecclesiastical or indeed for any tribunals. In this respect the Christian Church quite naturally took over the law and practice of Rome, while it sought its converts and its chief congregations among the Romans. Now the Roman treatment of the problem is stated within the *Lex Julia et Papia Poppea*. This is a voluminous matrimonial code in which Augustus Cæsar enshrines the traditional customs of the republic with a few limitations introduced by him in the direction of a greater strictness. This code not only imposed no material restraints upon the freedom of divorce except by a few pecuniary provisions regarding the repayment of dowries but also (which is more to the point in this connection) in nowise whatsoever sought to establish State jurisdiction in what was regarded as a private matter. In the Pagan empire divorce was as

<sup>1</sup> Howard. *History of Matrimonial Institutions*, Vol. I, 308, 313.

much excluded from the courts as from the jurisdiction of state officials and left to the decision of the parties, as it still is among Buddhists or those Hindu castes which tolerate dissoluble marriage. Indeed, until the time of Justinian by the laws even of the Christian empire there was no restraint upon divorce by mutual consent. Thus during this period the doctrines which the Church gradually evolved in regard to marriage and divorce were of the nature of counsels or admonitions to the faithful and were in no sense instructions to any court or regulations having the binding force of law. At times, though rarely, it was advocated that persons disobeying those admonitions should be thrust forth from out the congregation and excommunicated, as it was called. But it was many centuries before the Church tried to get these principles embodied in an enforceable law, and many more before it set up ecclesiastical courts to adjudicate upon such questions.

The spread and definite acceptance of the idea of strict indissolubility, though it had been Christ's own teaching, was a matter of slow growth. The theory was indeed proclaimed as early as 407 by the Fourth Council of Carthage. "*Neque dimissus ab uxore neque dimissa a marito alteri coniungatur.*" The fact was, indeed, that the Church after long hesitation had come to the conclusion that there should be no divorce carrying with it the right to re-marry. In fact, re-marriage of the woman was an abomination in the eyes of the Fathers, even when there was no divorce and the separation was caused by death. One finds St. Jerome, for instance, crying out that a woman re-marrying is "a dog returning to its vomit and a washed sow returning to its wallowing-place." And he added with reference to divorce that "so long as her husband lives she is not to be allowed to

marry again.”<sup>1</sup> The policy of the Church on the subject, however, underwent a slow and gradual precipitation. Both St. Chrysostom and St. Augustine personally passed through long periods of hesitation and, though St. Augustine in the end decided against divorce, yet he admits in the most modest terms that the question is surrounded with difficulties. The writings of the early Fathers had been full of the subject from Hermas in the earlier part of the second century to the age of St. Augustine, who died in 430. In Hermas one finds not only carnal transgressions but also idolatry, apostacy, and covetousness admitted as grounds for divorce. He, however, condemns re-marriage thereafter. Origen enlarged the grounds even further. On the other hand, the Council of Elvira in A.D. 305-306 pronounced a sentence of excommunication against a woman who should re-marry after divorcing a guilty husband: but the Council does not go so far as to declare the second marriage null and void. St. Basil (329-379) also considered the woman to be prohibited from re-marriage by the custom of the Church but considered the re-marriage of the husband to be pardonable. Even St. Augustine’s earlier view had been that “divorce is permissible by either husband or wife not only for carnal lust but for any lusts which make the soul stray from the law of God, as fornication must be taken in a universal sense.”<sup>2</sup> In fact, the indissolubility of Christian marriage was first definitely fixed in the twelfth century by Gratian<sup>3</sup> and Peter Lombard. It was in the end dogmatically asserted by the Council of Trent in the sixteenth century under Spanish dominance.

The theory, however, as it took root found itself

<sup>1</sup> Kitchen. *A History of Divorce*, pp. 77-79.

<sup>2</sup> *De Sermone Domini in Monte*, Lib. C-XVI. <sup>3</sup> *Decretum*, II: 32, 7, 2.

growing upon stony and unfruitful soil. It had to struggle both against the conflicting theories of imperial legislation and against the still more stubborn folk-lore and customs of the converted people. The penitentials are directions given to the priests of the Church how to handle the congregations in the application of ecclesiastical doctrine. They state what actions at any given epoch the Church was willing to tolerate in its members without condemning them as direct sin : though at the same moment the Church in its canons might expound the more rigid Code which best befitted a Christian. The penitentials in other words are a monument to the wisdom of the Church which modified its ideals to the requirements of the congregation. Thus both the Anglo-Saxon and the Frankish penitentials still tolerate divorce *a vinculo*—total and absolute divorce carrying with it the right of re-marriage—in not infrequent cases, which include even desertion or the husband's imprisonment : and the penitentials as a whole disclose that in spite of the indissolubility which was becoming the canonical doctrine, there was much laxity in divorce well up to the tenth century.

It was not difficult, however, to indoctrinate the people gradually to a theory which did not so much lessen licence as induce irresponsibility. It was less easy to overcome the repugnance of an imperial bureaucracy habituated to the traditions and devoted to the precedents of Roman jurisprudence. Advised by their Civil Service the Emperors refused to tolerate the intervention of the Church in what was still a private contract or to accept the novel doctrine of indissolubility. The Empire, even after it was Christian, declined to abolish the right inherent in either party to dissolve a marriage, voluntarily contracted, by a simple notice no less volun-

tary. And the effect of such a notice was to terminate the lawful marriage by its own force. Recourse could be had to a court only if it could be shown that the party who dissolved the marriage had done so without sufficient grounds. In that case he or she might be condemned to forfeit the dowry or to pay an agreed donation. The procedure was, in other words, strictly analogous to that which attends the dissolution of any partnership. A business partnership can be terminated by either party on notice without any judicial proceeding, but, if it is dissolved hastily or inequitably, redress by way of damages may be sought in a competent court. That divorce by mutual consent was lawful was a proposition which continued to be accepted, and it was not till the day of Justinian that it was at last abolished in a Christian empire. But even after its abolition Justinian still admitted many other reasons for divorce, though he also introduced not a few artificial regulations that were oppressive to the weaker sex. In general his legislation tended to emphasise both the carnal side of marriage and the subjection of women. He gave the custody of children, for instance, to the husband if the wife re-married, even when she had been the innocent party in a divorce, and he condemned an adulterous wife to celibacy for five years. Generally, of course, the subjection of womankind had been emphasised by the Church, and by virtue of his innate superiority the husband was allowed the rights of chastising and imprisoning his spouse. The wife was refused even separation from bed and board if her husband had committed nothing worse than adultery. For consolation the Church preached the lesson to the unhappy wife that the ill-treatment she had to suffer was a cross that she should bear for the expiation of her sins.

In regard to marriage, however, the Eastern Church never succeeded in triumphing over Imperial law. It never, for instance, was able to insist on making ecclesiastical rites obligatory for lawful marriage. Within its dioceses there are, even to-day, many grounds allowed for divorce that were long ago abolished within the countries subject to the influence of the Catholic Church.<sup>1</sup> It is therefore only from the twelfth century onwards that the perfected doctrine of Christian marriage is found, in a form that is almost complete, within the Catholic Church. From that period—with slight modifications thereafter—Christian marriage as expounded in the Western Church is at any rate monogamous, sacramental and indissoluble. Moreover, from that date disputed matrimonial cases were assigned to the jurisdiction of ecclesiastical courts : and even such separations from bed and board as were needed by parties, who could not endure a life together, were not left to their own arrangement but adjudicated by tribunals. From the decision of these courts and the researches of the ecclesiastical lawyers were gathered those bodies of decisions, precedents and principles which constitute what is known as canon law.

While, however, the doctrine of indissolubility was being proclaimed with unmitigated sternness, the weaknesses of humanity were at the same time indulged by the freer application of the rules of nullity. It had, of course, always been obvious that people might in certain cases think themselves married who were not really so. For instance, a man with a wife already living might conceal the fact and go through another ceremony with a second woman under false pretences. In that case this would be

<sup>1</sup> Westermarck. *History of Human Marriage*, Vol. III, p. 33.



no marriage: it would only be a crime. This is a very simple instance of nullity in which a definite impediment exists from the beginning. But the Church gradually secured that in such and in all instances a reference should be made to an ecclesiastical court and a decree obtained. Other grounds of nullity might be equally simple and obvious. There might be want of consent, for instance, or consent fraudulently extorted, or there might be want of consummation either on account of wilful refusal or of impotence. In such cases one of the two ingredients necessary to lawful matrimony is non-existent, and the so-called marriage is simply void. Another category of cases, in which marriage must be declared null, obviously is if the ceremony has taken place between parties to whom it is prohibited either on grounds of public policy or by ecclesiastical law. It is, for instance, open to any national legislature to prohibit marriage to certain classes of its citizens on grounds reasonable, scientific or frivolous. It might, for instance, as some nations have already done, forbid marriage altogether to persons afflicted with certain virulent or repulsive diseases like consumption. Or it might prohibit marriage to persons classed as habitual criminals, a restriction which some have claimed to be reasonable. Or it may even do as some of the States of Northern America have done, and prohibit marriage between a person any of whose ancestors were born in Africa, and any persons whose ancestors came from other continents.<sup>1</sup> In any such case, however irrational, cruel or absurd the injunction might be, the union of the two parties would *ab initio* fail to constitute a marriage and every court would be bound to treat its conditions

<sup>1</sup> It is lamentable but true that Great Britain has recently sanctioned similar laws in the two colonies of the Transvaal and Kenya.

and undertakings as null and void. Canon law, of course, did not go to such experimental or prejudicial extremes. The only artificial restriction of this kind, which it introduced, was in the case of marriage with a person of another religion. The marriage of a Christian with pagan, heretic or Jew was always null.<sup>1</sup> In addition, however, the Church declared that all persons related to each other within certain degrees of kinship were incapable of contracting a valid marriage. These relationships were at first selected on natural enough grounds but they gradually received a vast extension. Not only was the number of natural prohibited degrees enlarged but by analogy the prohibitions were applied also to the supposed relationships created by adoption or even by standing sponsor at a baptism. Hence a state of things arose in which in a very large percentage of marriages, if they turned out unhappy, it was possible to discover a flaw which to the ingenuity of a trained ecclesiastical lawyer appeared to nullify the marriage. But as the Catholic Church with creditable humanity discovered the means of declaring at the same time that the offspring of such a supposed marriage remained legitimate, though the parents were subsequently discovered never to have been married, natural justice was satisfied while some desirable relaxation was introduced in the rigidity of matrimony. The expense of the proceedings confined the remedy as a rule to the richer classes : but it was among them chiefly that divorce was sought : and the ease and frequency with which nullity was decreed achieved for that class in the period from the twelfth century to the Reformation many of the benefits which are anticipated from freer and extended divorce.

<sup>1</sup> Kitchen. *A History of Divorce*, pp. 67-70.

With the Reformation, however, there were introduced into the practice and doctrine of marriage and divorce changes of the utmost importance even within the Catholic Church, but especially in the Protestant congregations which arose in various countries of Western Europe and continued thriving among the Germanic nations.

Within the Catholic Church, the change was chiefly manifested by a greater rigidity and immobility. Until that date austerity had at least been tempered by that humanity and comprehension which are even now the glory of Catholicism. But in the Counter-Reformation there was a hardening both of rule and practice. The decisions of the Council of Trent have already been noted. Spanish Churchmen then and for centuries exercised supreme influence and displayed within the Vatican the same intolerance and the same ascetic ferocity as they had learnt in their own country in deadly contests against the cultures of the Arab and the Jew. The new austerity was recommended and enforced by the relentless pressure of an order invented by a Spaniard, the Jesuits, whose learning, discipline, personal abnegation, courage and sagacity will always arouse as much admiration in an impartial observer as their collective ambitions, their consuming fanaticism and their transcendence of human feeling and desire excite mistrust and apprehension.

The Protestant view of marriage has been variable and confused. As Protestantism in the first place relies or professes to rely on private judgment and further is not one belief but only one dissidence, the teaching of the Reformers in regard to marriage could hardly be expected to be uniform or constant. It is, as a matter of fact, extremely difficult to follow the threads of reasoning

and principle, which have led to conclusions that often appear illogical and which certainly have in practice been productive of much misery.

The one point on which all the Reformers were agreed was that marriage was not a sacrament. To them it was a worldly status only, shorn of all that had made it holy. But they deprived it of its sacramental holiness, not only in the ecclesiastical sense, but also by stripping from it all the spirituality, all the sanctity of higher love, and all the nobler passion of the soul. They reduced it in their Germanic fashion to the gross elementary satisfaction of an appetite and saw in it merely a social device for concentrating the lusts upon one object. Indeed, as the Reformers in certain cases and for certain reasons were ready to approve of polygamy, it might be called a social device for confining these lusts to not more than two women kept for the purpose under the name of wives ! In Luther's writings the attitude is very plain. He deprives marriage of all that spiritual significance which, in spite of the general character of the Pauline teaching, the Catholic Church had upheld in the preceding centuries and reduces it to something little better than a licensed sin. Women he regards throughout in relation to their powers of obeying the exhortation to "increase and multiply."<sup>1</sup> The same view is expressed even more forcibly by Melancthon, one of the more humane and refined of the Reformers. In words which are an echo of the primitive savagery of the Puritan sects he exclaims, "If a woman becomes weary of bearing children, that matters not : let her only die from bearing ; she is there to do it."

With this crude view, that the wife was there merely to supply her body for her husband's physical needs when

<sup>1</sup> Mona Caird. *The Morality of Marriage*, p. 78.

he wanted and to bear him children, it was logical enough that to them the woman's adultery should appear to be the main and most serious of matrimonial offences. Mutual deficiencies or incongruities did not matter—they did not look for companions in their womankind. They recognised only one definite physical use: they believed strongly in private property: and they thought that wives belonged to their husbands. Hence it seemed clear to them that adultery was a crime, like theft or treason. In most Protestant Codes, therefore, one finds adultery made penal, while the leaders of the sects, Luther, for instance, and naturally Calvin, clamour that it should be punishable with death. In the same sequence of ideas, they treated the refusal of "conjugal duty" as the second most serious offence that a wife could inflict upon her husband. Most of the Reformers, if not all, were as ready to make refusal of conjugal duty on the wife's part a definite ground for divorce and a sin as they all agreed in making adultery. But they counselled that the husband should not at once seek divorce on the ground of his wife's unwillingness. Before taking that step he was advised to use all other means to ensure submission, to beat her, fine her, exile her, or put her in prison. Luther in particular in this matter displays excessive brutality.<sup>1</sup> It is interesting, however, to note that the Reformers, being men and with the exception of Luther apparently not very virile, do not regard the failure of the husband to gratify his wife's desires on every occasion as an equally gross offence. Desertion also, by which of course the one party deprived the other of that physical relief which was represented as the purpose of marriage, was by most of the Reformers considered to be an adequate ground for divorce.

<sup>1</sup> Howard. *History of Matrimonial Institutions*, II, 63.

But, while the Reformers rejected the doctrine of indissolubility and in opposition to the Catholic Church declared that absolute divorce with the right to re-marriage was admissible, yet on the other hand with some inconsistency they upbraided the Church for the freedom with which decrees of nullity had been granted by the ecclesiastical tribunals. The fact was that the Protestant Churches found themselves balancing on untenable ground. On the one hand they resisted any ecclesiastical intervention in the private, carnal and mundane matter of marriage and therefore repudiated those doctrines of kinship which were the cause of suits that could equitably be decided by Church tribunals only, while on the other hand, as men of a rather gross type, priding themselves on their pedestrian common sense, they disapproved of the doctrine of indissolubility. For that doctrine is ultimately derived from sources of love and charity which were never disclosed to their eyes. In general, it is clear, the Reformers were suffering from a sort of moral indigestion. They had had a surfeit of the humanitarianism, the charity, the loving sympathy with which the Catholic Church as a body and the Catholic priest as an individual touched the wounded heart of the sinner and applied the balm of Christian mercy. To them anything was unknown like the sweet sympathy of the Spanish nun, who while she shows the traveller round the hospital of charity in Seville, will praise the beauty of the city's women and explain with a human smile how hard it is for any man to resist such temptations. "God will be very kind," she adds, "to those who yield to love." The austere reformer had no such comprehension. From his distorted point of view there was evil wherever there was passion. Throughout the centuries that have followed,

the cruel notion that laxity in sexual matters was not only a sin which God could not pardon but should also be made an offence punishable by human law, has vitiated the practice and legislation of every nation where Protestantism has laid its hand.

In general Protestant opinion appears to have held to the following propositions, inconsistent though they are in important respects with each other. They held, as has already been stated, that marriage should be a close and essentially physical bond. At the same time, though they insisted upon its rigidity, they also condemned prostitution absolutely and in most cases also concubinage, without apparently recognising that these must be the necessary accompaniments of rigid monogamy. They held, of course, that marriage is not a sacrament and stated that it is only a civil contract. Here, however, they found themselves at once entrapped in further inconsistency, for they were as reluctant to divest matrimony of divine commandment as they were to clothe it with the solemnity of a sacrament. That it was merely a human and civil institution, they were not prepared to admit. They found themselves compelled, therefore, to asseverate that, though it was a civil contract, it was also an ordinance of God. To cover the inconsistency they had recourse to expedients as illogical and intellectually dishonest as can be found in any reasoning. Thus, for instance, Shelden descends to saying that :

“Marriage is nothing but a civil contract. ’Tis true ’tis an ordinance of God ; so is every other contract ; God commands me to keep it when I have made it.”

Other arguments have also been sought to reinvest a civil contract with divine sanctity. It has been severally alleged that it owes this distinction to the facts, first,

that it is based on a fundamentally natural relationship : secondly, that it is liable to affect children of whom the State is the proper guardian ; thirdly, that it concerns the well-being of the community intimately ; and fourthly, that it cannot be wisely dealt with apart from Christian principles. These are ways of argumentation, which obviously would not require any serious regard, if it were not that the mentality of which they are the sophisticated expression has shaped the laws and customs of so many countries. What they disclose is merely this, that some more or less reasoned defence is sought for a view which repudiates indissoluble marriage and yet refuses to face the alternative of easy divorce. In general, indeed, though all the reformers have urged that marriage was dissoluble, yet they tended in conformity with their grossly physical view of the bond to confine divorce to the one ground of adultery. In such cases they allowed re-marriage to the so-called innocent, but could come to no agreement in regard to the guilty, party. It is only fair to add, however, that more liberal views were favoured by Erasmus, Zwingli, and Melanchthon. They saw clearly that adultery was neither the only nor the gravest offence against the purposes of marriage. They therefore argued, not without sophistication perhaps but at least for a deserving cause, that, as the Scriptures had in their view admitted adultery as a ground for divorce, they must be taken as also sanctioning all equal or graver motives.

The Reformers were equally inconsistent in their views of how marriage might be dissolved. It would obviously have been most in conformity with their general views, if they had declared that divorce in Christian as in other countries should be a matter for private arrangement between the parties who had made the contract. There



were indeed some among the Reformers who would have gone this length, and who maintained that divorce should follow automatically on the occurrence of any of the grounds which the Protestant congregations considered sufficient and that no intervention by any public authority was required to make it valid. It was indeed generally supposed among Protestants that marriage was *ipso facto* dissolved by the offences mentioned. But, though the Reformers were anxious to oust the ecclesiastical courts, they were not equally prepared to diminish the authority or detract from the incomes of the princes who supported their party. They therefore somewhat incoherently proclaimed that the judge appointed by the government was the representative of God and that a judicial enquiry must precede a divorce, although on their own principles such an enquiry could only state that there had already been *ipso facto* a dissolution of the marriage by the occurrence of the recognised cause or causes.

Particular historical interest attaches to the *Reformatio Legum Ecclesiasticarum*, which was submitted to the sovereign in England in the year 1552. It was drafted mainly by Bishop Cranmer but obviously under strong foreign influence, and may be taken as representing on the whole the most generally held among the various Protestant views on the different problems of marriage. It is probable that it was only the death of Edward VI which saved it from being put into law. One point of special interest in these proposals is that they contained what has subsequently been maintained as a basic principle of English divorce law. This is that, when both parties are guilty of infidelity, the remedy which either might have obtained alone shall be denied to them together. The principle is one that is in contradiction not only to the conception of a contract but also to the

dictates of humanity and ordinary common sense. If a contract is voidable by one of the parties on a breach of its conditions, it must obviously be even more undeniably voidable by the fault of both ; and, if adultery is a breach of loyalty so painful as to render further joint existence unendurable, then obviously it will be doubly unendurable when both have broken faith.

The ideals of Christian marriage as they are maintained in the principal Churches or bodies of Churches, which claim to possess the true traditions of Christian faith, have now been reviewed. It is manifest that the opinions peculiar to Protestantism contain in themselves elements of decay. They rob of their sublimity and their absolute validity both the realities of the Universe and the rules of moral conduct by reducing them to the sphere of private judgment. Moreover, as the mind becomes habituated to inconsistency and accustomed to subterfuge, private judgment is vitiated at its first origin. The inconsistencies lie not only in the formal contrariety of one judgment with another ; their deepest injury lies in the fact that they are in contradiction with human nature. They have denied love, and have degraded the noblest relations of man and woman to the mere relief of an appetite which they strip of poetry and of elevated passion, while at the same time they attach to this physical satisfaction an importance so vast that they base a whole code of morals and their visions of ideal propriety upon the claims of private ownership in its instruments. It is almost indisputable that most of the domestic unhappiness and most of the artistic and intellectual barrenness which exist in those countries where the Protestant ideals are still a living influence, are due to those hypocrisies and those denials of the eternal laws of nature.

The claims of the Catholic Church upon the respect

or reverence of mankind are very different. That the religious spirit in some form or another penetrates deep in the consciousness of human beings is a proposition that can hardly be denied. Alone, face to face with the vast and undefinable forces of the Universe, groping by the fitful flashes of his insight for some clue to the darkness in which he wanders, man strives to clothe with colour and form his visions of something permanent and something real beyond the whirling mass of sensation, out of which his struggling self and feeble understanding mould the objects he perceives. In him is not merely the fear of powers that he cannot know and a future which he cannot foresee but also the finer and nobler instinct to take joy in what is good and beautiful and to worship what is high and inspiring. He gives embodiment to his hopes and shape to his aspirations ; and finds consolation in his hopes of immortality and encouragement in his image of a divinity that guides his steps. He assumes as the commands of an Almighty Deity those laws whose existence he conjectures : and the spirit, which he recognises underneath transient matter and sensation, he adores in the name and image of his God. For the vast majority of mankind the religious feeling is as necessary to any life higher than mere appetite and animality as are the feelings evoked by art and beauty. It may be that among the most primitive or the most degenerate of savage races the religious spirit has not become conscious or has decayed. It may be that, as mankind advances further in capacity and attains a truer equipoise with its environment, men will be able to dispense with these vestments in which they clothe the intuitive exaltations of the human soul and the transcendental conclusions of human reason. It may be that the time will come when every class within

the community will be as fitted by mental attainment, by training of character and by balanced and disciplined education to dispense with the promises and the menaces, the consolations and the encouragements of religion and as ready to relinquish the hope of immortality and the fear of infinite Providence, as are in this generation those enlightened natures who have been able to benefit from the profound and elaborate study of science or philosophy. There have been many thinkers who had already hoped that this time had come and who contemplated the advent of a humanity freed from superstition and lightened from the burden of beliefs which could not be justified by the facts of knowledge or of nature. But the event has shown that such optimism was not justified. The experiment of Russia has not been encouraging for those who tried to persuade themselves that men were rapidly improvable, and hoped that they had developed beyond the stage at which religion is required to make life tolerable. Nor can it be said that the excesses committed by the free-thinking parties, which have controlled the State in France, are more inspiring. If in France, a country which has attained probably a higher level of intellectual and artistic development than any other of the modern world, the decay of religious belief in half the population has led to results so far from satisfactory, it may be assumed without doubt that in other peoples the continuance of religious belief in some more or less mitigated form for many generations to come will still be a necessity of an ordered and elevated well-being.

If it be conceded that these conclusions are reasonable, then it is undeniable that the Catholic Church has peculiar claims upon the allegiance of the European peoples. In that Church are enshrined the very spirit

and traditions, the pride and history of Europe. The Catholic Church has taken over and carried on the pomp and splendour, the dignity and breadth of that which was Imperial Rome and has brought to it the added values and the loftier sublimities of the concept of the *civitas dei*, the kingdom of God, in which all men like brothers shall be obedient to the Divine commandments of love and charity. The Church has claimed the right to rule men, but it has exercised its power on the whole in the cause of humanity. It has held before the eyes of its followers visions of peace and goodwill, promises of mercy and salvation. It has preached the duties of loving fellowship, of kindness, of devoted service. It has aimed at a political economy in which well-being might be within the grasp of all, in which the exactions of wealth or insolent power should be curtailed and restricted, in which the weak and sick should be cared for and protected, in which all, man to woman and woman to man, should feel themselves kin and united as children of God and partakers in one equal destiny. Its preachers and its confessors have never ceased to convey the message that by penitence, by love, by charity and by good works the sinner can find forgiveness and attain that peace which passes understanding. Moreover, in many of its offices and its holy places, in its festivals, its observances and its saints the Church has preserved legends and traditions which had existed in Aryan Europe before the coming of Christianity.

For the Church, which founded its capital seat in Rome, dealt with the Semitic faith that it proclaimed much as another Aryan people, the Persians, dealt with the Semitic faith of Islam, when it found a domicile in their country. The Shi'ah sect of Persia and especially those of its followers who have elevated it to greater

heights of mysticism under the name of Sufis have greatly altered the complexion of their religion by introducing into it survivals of earlier Aryan beliefs. They have, for instance, introduced the belief in the intercession of saints, which is alien to the Semitic spirit, and in particular have made of 'Ali, that very human personage in history, a figure almost co-extensive with the Deity and endowed with every attribute of perfection. Similarly, one finds that the Catholic Church has not disdained to incorporate in itself under other names those local beliefs in nymphs or Pagan demi-gods which had already existed among their indigenous converts.

In the Catholic Church, too, a concession agreeable to the weakness of human imagination and congenial to the sympathies of human fellowship was made by admitting the intercession of saints and encouraging vows and prayers at their shrines. It brought religion nearer; it touched the heart more closely. But in nothing else is the humanising spirit of the Catholic Church so clearly shown as in the fervent and beautiful practice of adoration to the Blessed Virgin. By the worship which centres upon this beatific figuration of womanhood the Church not only took over and created anew all the ancient impulses which centred upon feminine divinity. It also and above all established for its followers ideals of motherhood and purity and the sublimities of womanly virtue. It gave to every man a heavenly mother to whom he could pray. It gave him a divine figure in whom he could worship the qualities which inspired most that was fine and noble in his vision of womanhood. It gave to every woman one to whom she could come in trouble as to a sister with a firm expectation of succour, sympathy and support.

The religions which have held the allegiance of

mankind have often been dominated by a harsh and trenchant spirit which has been perhaps too exclusively masculine. They have built too largely upon fear and have been stern and repressive. The Catholic Church has tempered austerity by something feminine and has brought to its teachings the winning attractions of tender emotion and softer virtue : where it prevails, it has given the heart peace by its authoritative exposition. It has given something of serenity along with sublimity and an elevation of the spirit which does not exclude fellow-feeling and a kindly charity. Even in Spain, for instance, in spite of a certain ruthless pride which may be native to the soil and was embodied in the cruel harshness of the Holy Office, one can recognise in the daily manners of the people the effects of the Church's wide humanity and the loving inspiration of the Blessed Virgin. Those wonderfully beautiful women of Andalusia as they stroll in pairs through the streets with their black mantillas veiling the rich thick coils of their hair, or as they manage their households and guide their children with a charm and amiability, which does not make them less efficient, are filled with a spirit which derives from the faith they hold so firmly. Their passionate tenderness, their devoted affection, the whole true natural warm femininity which shapes their every act and fills their lives, are inspired by the sublime model which the Church has set before their eyes. It is part of the same broad spirit of humanity which in another sphere has made the Church the most potent instrument of artistic creation. In all that concerns the higher emotions and the creative arts, Europe at this day would be an unthinkable wilderness of desolation had it not been for the enthusiasms and the patronage of the Church. Painting, music and architecture, in the Europe that is

our heritage, alike have owed their re-birth and much of their later growth and strength to the Church. It often happens even now that one who no longer believes and whose thought moves at intellectual altitudes far beyond the atmosphere of religious faith, may still touch diviner heights of emotion as he listens to High Mass, with all its accompaniments of musical magnificence, solemn rhythmic movement, and splendour of line and colour, within the precincts of an historic cathedral.

With the admitted need of religious belief to the vast majority of mankind for many generations still to come, with this sublimity of expression in the Catholic Church, with its humanity and its loving charity, its authority and tradition, its wisdom and political sagacity, one must all the more deplore that, in respect of those matters of sex which though they are not perhaps the highest interests to the individual, are yet undoubtedly one of the two most important forces upon human life in the mass, the Church has allowed its teachings to be warped by preconceptions which are alien to human nature and inimical to human happiness. One cannot but regret that she has not yet been strong enough once for all to clear away the encumbrances put before it by St. Paul and accumulated by the ascetic fanaticisms of Africa. In as far as the Church in this matter stands for sound and united family life and a healthy and normal relation between husband and wife, in as far as she maintains that the characters and functions of men and women are essentially different, and that the notion of mechanical equality between the sexes is a mere aberration, as long as she insists that modesty should still be a feminine attribute as courage and decision should be attributes of men, as long as she preaches that happiness lies not in pleasure-seeking only but in the perfecting and fulfil-



ment of human function by service and devotion as well as by the accomplishment of what is best and highest in one's soul, so far will she obtain and deserve the respect and suffrage of every man who is not misled by ephemeral sophistries and fashionable paradox.

But all the more lamentable will it be, if the Church is unable to discard precepts which are not essential to its doctrine and are in contradiction not only to the laws of nature and the requirements of humanity but also to the spirit of loving-kindness which is the true gospel of Christ. It is time surely for the Church to modify *its* position in certain particulars in accordance with modern knowledge—to accept the fact that the happy family life *she* extols can be found only where there is joy in sex, to abandon the demand that no one in any European country whatever his creed and whatever his unbelief, should be granted relief from an unhappy marriage, and to relinquish the pernicious conclusions regarding birth-control which have been derived by high personages within the priesthood from the original misconception of the value and purposes of marriage. Better by far if the Church would employ its vast influence and its great power with renewed and concentrated energy and with concerted effort, in order to supersede the anomalies of the present industrial system by a more equitable and better adjusted use of the world's capital till mankind reaches a state, not necessarily too difficult of attainment, in which it shall be possible for every reasonably hard-working man or woman to marry at the age when nature calls for it and live healthily and securely within the circle of a family ! But if the Church persists in lending support to opinions in regard to sex so inconsistent with human requirements and so irrelevant in fact to the central truths of religion, she will force every human

being who has the ability to think for himself not only to stand aloof from a faith, of which in other respects he acknowledges the manifold claims and attractions, but even to range himself, however unwillingly, in the ranks of those who actively oppose, on grounds sometimes noble and elevated but more often merely vulgar and ignorant, her influence and domination.

## CHAPTER XIV

### MARRIAGE IN MODERN EUROPE

THE doctrines of Christian marriage as taught by the Churches remain as they were. Most of the nations of Europe continue to profess Christianity: and in one or other of its leading forms accept it as the State religion. But with one exception there is no country left in which the laws that govern matrimony pretend to adhere strictly to the teachings of Christianity or of its Founder. On the contrary, they are everywhere regarded as ordinances of the civil state, subject to all the discussion and amendment which pertains to ordinary legislation. They are professedly based on reason or what passes as such: and their advantages or disadvantages are argued with seeming impartiality in the same manner as other laws of social hygiene or social morals. At the same time, tacitly or avowedly, the habits of Christian teaching and Christian tradition are adduced in order to influence argument and decision in the matter.

The only exception to the general rule is Spain.<sup>1</sup> Spain has not yet wavered in its close and literal adherence to the Christian faith. It believes that a law given by God is good enough for men: and that no civil power may modify or abrogate a divine decree. In Spain the law of marriage is still that which had been

<sup>1</sup> The new Republican institution will change this.

proclaimed by the authority of the Church : and the State continues in this and kindred matters to be the humble minister of ecclesiastical power.

In this, as in so many other respects, it was the French Revolution which altered the features and changed the limits of European life and thought. It was first proclaimed in France that marriage is as much or as little a matter for human regulation as any other activity of mankind : and that human reason has as much right to take cognisance of the relations of sex as it has of commerce, industry or war. The dissolving forces of the Revolution in time penetrated to other countries, and with the exception already noted no country has wholly escaped their influence. But they have made themselves felt in different ways and at different strengths in various countries. In some places material existed more appropriate to revolutionary ideas : other countries were more resistent. In general, however, the nineteenth century was marked by the spread of those ideas which are conveniently labelled as "étatisme." In regard to marriage the leading idea was that it was a status constituted and legalised by the sanction of public officials. Religious observance was relegated to a secondary place. The blessing of the Church might be sought if the parties desired, but it was, as it were, superfluous and decorative. The essential part of marriage was that it should be a union accordant with legislation formulated by some temporary assembly of untrained and usually ignorant persons, called a Parliament, and that it should be entered into with the approval of a local official. This particular theory has been applied with more or less consistency with the consequences which are visible in different countries. But, as things now are, it may be said by a rough but

sufficiently correct generalisation that in their treatment of marriage the European or Europeanised countries fall into one or other of three groups.

First is the group of countries affected directly by the principles and consequent legislation of the French Revolution, as they found final expression in the Code Napoléon. There is, secondly, the Scandinavian group of countries which modified their matrimonial laws at a date considerably later and under influences which, though equally rational, are nevertheless based on a very different type of reasoning and suited to a different kind of character. And lastly, there is the group consisting of the British Isles, the white population of the British colonies and the United States of America. Within each of these groups there are differences enough and differences which are often extremely inconvenient. It is almost incredible, for instance, how greatly those marriage laws which bind an Englishman in England differ from those which apply to his brother in a British colony. Still, great as these differences are, they are less noticeable than the resemblances in the group or than the points on which they differ from the methods of each of the other groups.

To understand the significance and social value of marriage to the modern European it is there necessary to follow not merely the Christian tradition but also the actual law and practice of each of these three groups with some accuracy, realising at the same time that the actual meaning of marriage to the individual citizen or his wife in any country must be something compounded in varying degree out of the ordinances of the law and the surviving sentiments of religion, further modified according to the personal character of each.

Particularly interesting are the countries in which the

laws of marriage and divorce are based upon the Code Napoléon. Perhaps the most noticeable feature of French law is its frank announcement of the fact that marriage cannot be merely a personal matter but is an act which affects families in their entirety. It is true that the Code was considerably modified by a law of the 21st June, 1907, and by further subsequent legislation in the modern Liberal or Radical direction of regarding individuals as more and the family and society as less important. Even now, however, the persistence of the family council and various other provisions, which recognises the claims of the family upon its members, still proclaim the continued power of former principles. Further, the fact that marriage is of importance to the community as a whole is recognised by provisions which enforce adequate and timely public notice of the intention to marry. Moreover, a merely religious ceremony is not considered sufficient and a marriage to be valid must be celebrated in public before the civil officer of the administrative area, even if a religious benediction be also sought.

Married people in France hold their property by one or other of two systems—the *régime de la communauté* or the *régime dotal*. The former is, so to speak, the "common law" system—that is, it is the system which is presumed to obtain unless the other has been deliberately chosen or except in as far as it is modified by special contract or stipulation. On either system the property belonging to the wife, her dowry, her earnings, or whatever it be, is controlled or managed by the husband. The new law of 1907 has, however, substantially altered the situation of married women in a manner inconsistent with the rest of the Code. And a woman can now obtain full control over her earnings from her

personal work. In general, however, the husband as head of the family is required to sanction all expenditure incurred out of or charges incurred upon joint property. In France, for instance, a married woman cannot cash a cheque at a bank without her husband's authorisation. Under the *régime dotal* the bride is assumed to have brought at marriage certain property towards the joint expenses. This property, known as *la dot*, or dowry, is usually provided by the parents, but may be settled on her by any one, and often is in practice by the husband himself. The general conception of the *dot* is that it is a sum fixed at the time of marriage which cannot afterwards be augmented or diminished. It belongs to the wife, and interest on it is due to her from the day of marriage. But, as long as the marriage continues, its management is vested in the husband. The wife's heirs, whoever they are, succeed to it on her death. Under both systems the wife's ultimate rights are fully recognised, but the husband in a normal marriage has control and a right of management as responsible head of the family.

The provisions of the law which relate to divorce were promulgated in their existent form after a somewhat troubled history. The revolutionary law had allowed practically free divorce, since marriage had been regarded as a matter of free contract. Some restrictions were then made in it by the Code Napoléon, including at least one article of a peculiarly artificial and rather repulsive kind. After the Restoration, however, divorce was absolutely abolished. And for sixty-eight years the citizens of France, whatever their beliefs, were obliged to submit to a marriage law which denied to every one, whether Catholic or not, that power of dissolving an unhappy union or a broken contract, which was required by those

who no longer accepted marriage as a religious sacrament. After the lapse of those long years, however, Monsieur Naquet at last succeeded in enacting a law which with certain modifications virtually re-establishes divorce as it was under the Code Napoléon. The changes made subsequently have not been of the first importance. The general European principle in regard to divorce is to make it matter for a judicial decree. Divorce is nowhere in Europe regarded as a matter for private decision as it generally is in the East and was in the Roman Empire. French law as it now stands has not departed from this principle. Neither husband nor wife is allowed to give or obtain a divorce by a simple declaration or a written document on his or her part, as is the case in Mohammedan or Buddhist countries. They are obliged by law to appear before a court and ask for an order from a duly appointed judge. In other words, in this respect as in regard to the formalities of marriage, French law has accepted without question the view that the relation of marriage even in its dissolution is a matter which concerns the State. But the procedure by which divorce is obtained has been simplified and made humane, while the grounds for divorce as interpreted by the courts are liberal. In addition to adultery, which in France as elsewhere is a ground for divorce, all acts of bad treatment which involve either danger to life or health or which render existence in common insupportable are sufficient grounds. Moreover, under the words *injures graves* are included a number of acts sufficient for divorce, which range from a refusal of marital rights or the existence and concealment of a venereal disease through drunkenness or insult to religious feeling down to jealousy or any misconduct which compromises the dignity of the household. Moreover, any



conviction for crime which involves a punishment classed under the French penal code as "afflictive and infamous" is sufficient to justify a claim for divorce. Although, contrary to the practice of various other countries which derive their marriage law from the same sources, divorce by mutual consent is nominally not allowed, yet in practice the greater number of divorces are in reality due to a mutual agreement by the spouses. Such agreements are favoured by the French courts, contrary to the English legal doctrine which treats them as the worst of matrimonial offences. It is true that in France judges are not drawn from the lawyer class. In England they are, and it is obvious that lawyers would lose a very fruitful source of profit if parties could agree peacefully to be divorced instead of contesting the matter in costly litigation.

In general it may be said that French married life is based to a very great extent on conceptions of the family, society and the State, which descend directly from Greece and Rome through the general tradition of European thought and conduct. Ultimately they depend upon the idea that the most important factor in social life is the family. The preservation of the family as a definite unit is that which has appeared all important to the legislator. Husband, wife and children are regarded as a more or less self-subsistent entity, linked up in unbroken continuity with the past and reaching forward with equal continuity into the future. The idea is bound up with the concept of property as something more or less permanent and something worth preserving which belongs to the family unit and must be protected against individual caprice or mismanagement. Underlying all this is the view that the State, though it is not necessarily interested in the pleasures or privacies of the

individual, is yet distinctly interested in the maintenance of security and stability both in regard to property and in regard to family life. The underlying conception, in other words, is that of the Greek or Roman *civitas*, or State, with its traditionalism and its moderation. It seeks a tempered balance between the claims of the individual to personal liberty and the rights of society as a whole to insist upon the protection of those central institutions upon which European life, at least in the Mediterranean basin, has been built since the first beginnings of civilisation.

It may also be claimed and not without reason, that the provisions which serve to protect the family are in equal accord with the dictates of human nature, and with the social conditions which prevailed before the industrial city had taken its extreme form. Where a family and a family household exist, it must have a head, and the headship belongs naturally and historically to the male who ought to fight and labour for the home and its dependents. It may even be reasonably argued that normal happiness can only be found in marriage when the environments permit, and all the parties concerned, the man, the woman and the children, accept the situation imposed by nature in which the man protects, controls and decides and the woman advises, consoles and encourages. The rôle of the one is to manage the external affairs of the family and its business in relation to the other social units with which it is in contact in business or in war : of the other to conduct the internal administration, to secure its inner harmony and to procure for it such ease and tranquillity, such charm and grace as may be obtainable at the level of surrounding society. The family at any rate is an institution and the State is interested in its maintenance. French legislation

has therefore endeavoured to secure that the control of the State over marriage should be fairly tight and close. At the same time it must be conceded that reasonable liberty has been given to individuals to get relief from their union when it has become frankly intolerable by a procedure which reduces the unpleasantness to a minimum and grants divorce under conditions that are not too onerous. It avoids above all that repulsive publicity and the almost obligatory perjury, which have unhappily been associated with the English system. That divorce, by mutual consent, does not yet form part of the French Code, as it forms part of other codes which have been modelled upon it, is a legal inconsistency which the reasonable attitude of the courts has made less harmful in practice than it is in theory.

It must, of course, be remembered that certain portions of the law of marriage, more particularly the law of divorce, cannot be used by any believing Catholic, and that half the population of France still consists of believers. But for them these provisions are simply non-existent; they do not interfere with their beliefs; they do not affect their lives. The rest of the Code hardly conflicts with the doctrines of the Church. On the whole there is no doubt that the system is in harmony with the mental and moral attitude of the French and of other peoples who have applied similar legislation to the great problem of family and individual life. Where it is now assailable, if at all, is through breaches in the former social structure caused by the impact of the capitalist system in its modern form. The capitalist system, as it is, arose in the Anglo-Saxon world, but there is no country in which it has not subverted the old foundations. In France as in other lands the family is breaking up. The even distribution of wealth has

been disturbed. The gradual and regular attainment of fortune in a family, generation by generation, has given way to the quick acquisition of speculation and the sudden turns of big business. Women have lost the shelter of the family and no longer have the refuge of the cloister. They are being forced to work and seek an individual and independent existence on terms as much opposed to their natural limitations as they are to moral and social well-being. Whether in such conditions a matrimonial code can be maintained which depends upon social factors that are fast being submerged, is a doubtful question. But if it has to go, this will be due not so much to any faults of its own as rather to the confusion of an economic and social revolution, which France like other nations has been unable to evade.

In approaching the Scandinavian countries one is confronted by a totally different society and a very different concept of life. The Scandinavian countries, of course, are not exactly similar one to the other. Danish life is in many respects dissimilar from Norwegian and both again from that of Sweden. But in regard to marriage it may broadly be said that they resemble each other so greatly in the ways in which they all differ from other European countries and in the motive forces behind their recent legislation, that they may be handled together in this chapter. It may be permissible, therefore, to use a generalised description which, though not absolutely accurate in every detail for each of the countries concerned, will yet be valid on the whole for all of them.

In the Scandinavian peoples, with the possible partial exception of the Swedish aristocracy, family life in the European and especially in the Latin European sense has always counted for less and individual enterprise for

more than in the group of countries which has last been considered. What is meant by the family in Scandinavia is, even more decidedly than in England, just the one little group of husband and wife with those children who have not yet attained maturity. It does not reach back to the past or forward to the future, nor embrace in its compact unity the other living relatives on both sides. It is something more temporary, more transient, even it may perhaps be said more selfish. It is the union of a man and woman in their isolation, working for themselves against all the rest of the world, seeking no help and giving no assistance, rearing their children as they come till the day arrives when these, too, can go out and labour, and in their turn form similar little transient groups of two or three or four. That is one great difference. Another lies in the fact that for one reason or another, whether it be climate or the conditions of work or that unascertained and apparently undefinable thing which the Germans have taught us to call the "Race," the peoples of the Scandinavian countries are sexually frigid to an unusual degree. This, of course, varies and is certainly less noticeable in Denmark with its softer manners and greater charm than it is in Norway. But that in general these peoples are extremely cold, there can be no doubt. The coldness is demonstrated, for instance, by the habit still prevalent in Sweden of mixed bathing. In such bathing in Sweden both sexes swim and amuse themselves together and are even photographed together on the sands without a stitch of clothing of any kind. Nor is this habit confined by any means to the poorer classes, with whom overwork and insufficient food together with blunter sensibilities might be expected to operate. Even among the aristocracy such customs continue, to the amazement and

sometimes the embarrassment of visitors from southern countries. The general freedom of intercourse between the sexes is a consequence of this coldness. And whatever leaning to passion may have existed has been further diminished by the practice now introduced in Scandinavian schools of the co-education of boys and girls and in the universities of young men and women. It is obvious, of course, that co-education by the constant familiar contact which it compels rubs away all the mystery of sex and most of its attraction and is apt to reduce men and women of the same kind and class to relations little more warm than the intercourse of brothers and sisters. If it is moral to be lacking in sexual feeling and virtuous to do without the pleasures that it brings, then co-education is certainly a moralising influence. But if by morality one means the full development of character and the full performance of functions, if one means the realisation of self in the largest and most perfect sense, if one wishes in fact to see men or women splendidly great and vividly vibrant and not mere working and reasoning machines, then one will shun an educational intimacy and equality which obliterates the attributes of sex. Upon this individualism and this coldness have come in recent years the two modern movements of socialism and feminism. By feminism is intended, of course, that movement by which women claim what is known as equality with men. It is rather difficult to grasp exactly what is meant by speaking of the equality of persons who obviously are in most aspects of importance quite unequal. What probably is meant is a demand that men and women, though unequal or, to use a plainer word, unlike in their physical structure not only through the obvious difference in anatomy but also by subtler differences in glands, blood-

structure, respiration, nerve-response and so on, and though unequal or unlike also in their mental powers and the way in which they use their minds and emotions, and although they are no less unequal or unlike in the provision made by nature for their several functions, should yet be treated in all human legislation as if they were on equal terms and should have equal duties and responsibilities laid on them by the statutes of their country. It is noticeable that those who proclaim this message are often unprepared to accept the consequences, when this equality would deprive women of any privilege which they enjoy under existing laws. But commonly enough they go even further than has been suggested and lay claim to equality in matters wherein men and women actually are unlike and in which the dissimilarity is desirable and goes to make up much of the charm and beauty of life.

At any rate it is clear that in all its forms feminism has been a determining influence in forming the marriage systems which are now in being in the Scandinavian countries. Education, general and technical, is open as freely to women as to men. Young women of all classes are taught to work and trained to earn their own living. They need not marry in order to provide for themselves, nor on the other hand are they compelled into marriage like girls in southern countries by a loving heart or a passionate nature. The Scandinavians do not make too much of the desires of sex. When they feel them, they satisfy them as easily and naturally as one eats a breakfast when one is hungry. In their eyes desire is just an appetite more or less that has to be satisfied. Chastity before marriage is hardly worried about seriously. But it would be a strain on language to say that a girl takes a lover, as the relationship in these

countries seldom attains anything which can in any spiritual or passionate sense be called love. It is rather a trivial and accidental act shared with the first more or less agreeable person because it is natural and happens at the moment to be physically wanted. It counts for less by a great deal than the first tender kiss of a lover's lips in a southern country. In France, in Italy, in Spain, the ecstasy and faintness of passion at a girl's first kiss is something ineffable and unforgotten, something that never again can come back in life, something that in itself makes all the rest worth while. In those countries the woman who loves gives herself with all her inmost feelings, with her mind and thought, with every atom of her heart and soul. In those peoples love is something which sanctifies, something which is offered tremulously like a sacrifice and is seized and held tight against all the world. The physical transports are heightened and made perfect because they too are the expression of an all-pervading flame in which soul and body are made infinitely and inextricably one. Such are not the feelings in those northern countries. Liking, respect, affection there may be, and those are sought in marriages in which man and woman arrange to live together, helping each other in the business of life and the work of a household. And added to them in marriage or apart from them outside of it are the occasional satisfactions of an appetite which is felt not as anything transcendent enthroned in a heaven of its own, but as something not very different after all from the need of food or drink.

The influence of those views of political and economic life which are grouped under the name of Socialism has also had much to do with the Scandinavian attitude towards marriage and divorce. Socialism, as the word is now used, is really little else than an abstract and exag-



gerated individualism. It contains little of duty, little of sacrifice for any higher social unity, no sense at all of superiorities in life and government. It is an attitude in which all men are regarded in an abstract and unreal way as if they were individually alike, as pebbles are which have been rubbed long enough against each other in a bag. It allows for no peculiar characteristics. Socialism stands for individualism without personality, as aristocracy does for fraternity without similarity.

In modern Socialism essential tenets are that two individuals should be entitled to dissolve marriage by mutual consent, that it should be dissoluble at the expressed will of either party, that all judicial enquiry should be abolished and that divorces should merely be registered by a public official. The Socialist parties are powerful in all the Scandinavian countries and their propaganda has influenced their political opponents also.

The actual legislation of the Scandinavian countries shows abundant traces of all these influences. The view generally taken by the law is of two partners joining on equal terms in marriage, while marriage itself is regarded as in a sense a sort of accidental avocation added to the other business of life. Hence the laws are intended to secure that this separate and special partnership should not interfere with other rights which belong to each of them separately as individuals. In other words, it is not admitted that marriage is a relation so profound that in itself it altogether alters the whole course of life and transforms the status, value and real being of the parties who together compose the new entity. They are regarded as if they were still as they had been, with merely this new relation hung on, as it were, from outside. Thus, though according to their means both husband and wife are bound as a duty to contribute to

the maintenance of the family, yet beyond this minimum each is independent in regard to the ownership and control of sums earned by or otherwise accruing to each of them. Indeed, as husband and wife are regarded as two free individuals, they can even enter into valid legal contracts with each other. The guardianship of the man is completely abolished and the married woman has full legal power to act by herself, as if she had not been absorbed into a new social unit. It is, however, in regard to divorce that Scandinavian law is most distinctive and marks what to many persons in England and the United States seems to be the right line of future advance. It is distinctive in this that, though both separation and divorce are recognised, yet separation in Scandinavian countries, unlike England, is only a part of the process for obtaining divorce and a preliminary to the completed state. In fact, although the word separation is used and although it is decreed by a judicial process, yet it has no real affinity with what is known as judicial separation in England.

In England judicial separation is the descendant of the old canonical divorce from bed and board. Such divorces or separations were granted by the Church when marriage had become such a hell on earth that it would have been inhuman to expect the parties to live longer together. Once a separation had been decreed the husband by process of law had lost his rights or claims upon his wife. It is this process of judicial remedy which has survived in England under the name of judicial separation, though all the conditions and circumstances which made it a desirable and even a necessary palliative to an otherwise intolerable situation have long ceased to exist. It is by universal admission the most demoralising of all the practices in regard to

matrimonial relations, which are still permitted to exist in Great Britain.

But there is no resemblance between this and the judicial separation which is established by Scandinavian law. What is there established is simply a preliminary period fixed by the tribunal which hears the divorce petition, in order to allow a *locus penitentiae* or space for reflection and reconciliation to the parties before the decree becomes absolute. The period varies according to the country and the circumstances from one to three years. At the end of that period the parties have nothing more to do than hand in a written declaration to the tribunal that they are still of the same mind in order to obtain a decree of absolute divorce with the right of re-marriage for both.

In addition to mutual consent the grounds on which divorce is allowed are many and liberal. Among others it may be noted that insanity or feeble-mindedness is sufficient grounds and that even drunkenness or the fact that one or other of the spouses is leading a vicious life is also considered an adequate reason. There are further numerous administrative reasons for divorce, as for instance the fact that one of the parties has been sentenced to penal servitude or, in Sweden, violent temper or such differences as cause hatred between the spouses. The law even allows divorce for grounds which have arisen before the marriage such as insanity, infection by disease or pregnancy. And yet with all this liberality in the law divorce seems to be sparingly sought, for the figures of the latest available census show only 6 per 100,000 of the population in Norway and 8 in Sweden.

It will be apparent that in this system of matrimonial law one has a logical and consistent development from

the democratic conception of human beings as abstract and conventionalised individuals with similar capacities and equal rights before the law. It is consistent with conceptions of life and social existence, which are still held by many persons and by influential and thoughtful sections of society in all the Protestant countries and notably in England and the United States. It is indeed difficult to see how, in countries where those ideas which are peculiarly associated with the modern democratic spirit are still widely held, some such form of marriage and divorce can well be refused. Indeed, among peoples, for whom passionate love is comparatively unimportant and rarely known and where the economic system is not based on the family, such methods appear to present a considerable balance of advantage. The Scandinavian peoples have much affinity with the dominant national types of Great Britain and the United States. They are almost the only immigrants into the States who not only find themselves at once happy and comfortable in the conditions which exist there but who are also naturally and easily absorbed into the population. It is therefore plausible to suppose that laws which admirably suit the Scandinavian peoples will prove equally suitable in Anglo-Saxon countries. One need not necessarily admit that the theories of human nature, of the family, of the sexes, and of love on which this legislation is based are in accordance with eternal facts or with those ideals which have ennobled the activities and the lives of men. Yet it seems undeniable that those theories harmonise with a certain political, social and economic order, which until very recently was dominant in the world and is still firmly impressed on the peoples of some large and important portions of the globe.

## CHAPTER XV

### MARRIED LIFE IN ENGLAND

THE situation in regard to marriage in this country is, it must be admitted, extremely ill-defined. Both the law and the attitude of educated opinion regarding sexual relations in and out of matrimony have changed with startling rapidity in the last fifty years. But great reluctance to acknowledge this fact is still observable, and it is concealed as diligently as possible from the cognisance of the general public.

Broadly speaking it is probably true that most people in Great Britain look on marriage as an affair that concerns the two principals only. They regard the man and woman marrying as isolated individuals, who are free to make or mar their lives as they will and who have no intimate responsibility to others in this matter. At the same time, and a little inconsistently, there would be general agreement about the type of union likely to make any particular couple happy. Probably the word which best résumés what most people would look for is suitability. The word would not necessarily imply, as in France, a suitable congruity of income or, as in Germany, of rank and quarterings. The suitability which is looked for would be that of similar tastes, pursuits and social habits. There would also be general agreement that those about to marry should be in love with each other. But on analysis it would turn out that

those who advise marrying for love are really speaking of a milder feeling, such a liking or fondness as springs up between good comrades. In fact the very same persons will often urge long engagements in order that the couple should get to know each other well before they marry. In other words, they have no conception of the devastating fire which is real love ; and, it must be added, would run away from it, if they had. Passionate love is certainly not often meant or looked for, and it is no exaggeration to say that the majority of Englishmen would be seriously shocked and incommoded if they met it in their wives.

Again the notion of marriage as a bond between families or a further link in a chain of descent hardly any longer subsists. As in Scandinavia, so here, the married couple are regarded as two individuals who have joined up for the limited purposes of marriage into a new little unit composed of themselves and their children, till the latter grow up. There is little trace of that conception of the family as a permanent totality greater and higher than the aggregate of the living members who compose it, which prevails in all the southern European countries with their Latin traditions, and which is found also in the ancient cultural countries of the East. The fact is that those conceptions of human beings as isolated and equal units and of society or the State as merely aggregates of individuals, which underlie all democratic theory, are now so firmly indoctrinated in England as to form part of the general texture of practical thought. That the ordinary view of marriage is coloured through and through by them is certain. After all it is true that, though these conceptions found triumphant expression in Rousseau and the doctrinaires of the French Revolution, yet they owed their birth to the great English

thinkers of the seventeenth and eighteenth centuries. Nor is it less true that such a view is thoroughly congenial to the whole temper of the English character. The greatness of England and of the British Empire has been built up on individual effort and on individual self-reliance, and to many it may well seem a minor loss if the idea of the family has been lost while an empire was being gained. At any rate it is true that even in the so-called governing classes personal choice or personal caprice has constantly been the motive of marriage—while in the broad middle classes of the country little more has ever been expected than the comfortable partnership of two individuals.

On the higher side it must be added that the spirit in which marriage is entered upon is sometimes of a lofty, if somewhat ethereal, idealism. This spirit is reflected in the words which that well-known writer, Mr. Maurice Hewlett, in his evidence before the Divorce Committee, wished to use as a possible description of marriage. He described it as “the social sanction of the mutual desire of a man and a woman to unite their souls through their bodies.” Similar views have often been expressed in language of an even vaguer rhetoric. One writer, for instance, has said that “human love is the holiest thing in our experience. It is the most direct point of contact with the nature of our Creator. It is a relation between immortal spirits which in the external world are united solely by likeness of nature.” Even the cold and abstract personality of John Stuart Mill has attained almost dithyrambic warmth in his treatment of the subject. “What marriage may be,” he says, “in the case of two persons of cultivated faculties identical in opinions and purposes, between whom exists the best kind of equality—similarity of powers and

capacities with reciprocal superiority in them so that each can enjoy that luxury of looking up to the other, and can have alternatively the joy of leading and of being led in the path of development—I will not attempt to describe. To those who can conceive it, there is no need—to those who cannot, it would appear the dream of an enthusiast, but I maintain with the profoundest conviction that this and this only is the ideal of marriage.”

Such ideals can certainly not be condemned as wanting in nobility. If human beings were composed of mind alone and could be content with abstract thinking and the movement of a contemplative intelligence, such a union between the sexes might possibly prove satisfying. Ideals of this kind were professed through most of the nineteenth century and even now there remain many older men and women who are ashamed to diverge from them too openly in act or speech. They have profoundly affected the attitude of nearly every one in those classes whose actions are seldom natural or impulsive and who are moved by the pressure of conventional education and of public opinion, as it is manifested in the newspapers or in popular fiction. But true men and women are disappointingly more than reasoning machines ; they have natures infinitely broader, compact to an indefinite degree of the habits of an incalculable ancestry, human and animal, built up of instincts and passions and emotions, and strained and stressed by innumerable forces. The ideals now described fail in realism ; they are inadequate for real living beings. They entirely fail to satisfy the most vital and most valuable types of men and women ; they fall ludicrously short of the real nature and longings of love. For they ignore what after all must in all mankind be the permanent sub-structure of sexual union, and that is sex.



Many of the shortcomings in English married life as it is, must undoubtedly be traced to the contradiction between these ideal abstractions or the cheaper sentimentalities in which they are popularised, and the true and valid facts of life. For unfortunately there are serious shortcomings ; and it is undeniable that marriage frequently falls far short of giving happiness. It is true that there is a considerable percentage of married couples whose state is correctly described in the common phrase that " they get on well enough together." The number of acutely miserable marriages ending in crime or tragedy is probably less than in people more hot-blooded or less self-controlled. But, on the other hand, it must be confessed that the number of really happy marriages is very small indeed. What is distressing is that most people have in fact no idea of what happiness in sex union can be. Few indeed are those couples who have ever known what such happiness in a complete sense might mean or who have sought it and gloried in its achievement. Deprived on the one hand of the gratifications of sensuous passion and on the other of the inspiration and consolation of a religion fervently felt, and lacking at the same time such support as might be given by a large inclusive and coherent family life, it is small wonder if the greater number find in marriage little except a prosaic and unsatisfying routine. That most persons after the first flush of youth feel married life to be flat and uninspiring when it is not worse, seems unfortunately to be undeniable. It is not so much that they are necessarily dissatisfied with their partners or even actively unhappy. Rather they are dissatisfied with marriage itself as an institution in the form in which they know it, and feel that it falls far short of all their deeper yearnings. At the same time with that shrinking

from reality, which in the last eighty years has become a national characteristic, they hesitate to acknowledge the disappointment or to seek a remedy. Men go on repeating the usual platitudes about the sanctity of marriage, while at the same time in their practice they display reluctance to enter into matrimony or to assume these burdensome responsibilities.

It must be remembered that the marriage rates in Great Britain and the British colonies are very low indeed. While in France, Germany and Hungary more than twelve persons per thousand marry every year, the highest rate in any English-speaking country is only eight and a half per thousand. In Northern Ireland the figure falls below seven and it comes down to five in the Irish Free State. It may be noted that in the Scandinavian countries where the ideas in regard to marriage are similar, even though the practice of the marriage laws is more advanced, the rates of marriage are also very low, varying between eight per thousand in Denmark and six and a half per thousand in Norway and Sweden. It certainly does not look as if modern ideas of equality made marriage popular.

Now it is only partially true to say that the late ages of marriage are caused by the economic situation. They are not due, that is to say, to downright poverty. On the contrary, the general standard of wealth and the general standard of comfort are astonishingly high in England, and are even higher in the British colonies. There is a small proportion of people more or less submerged as casual labourers in cities or as farm labourers in the country. These, however, are classes in which marriage is usually hazarded very early, under the influence of that complete irresponsibility to which generations of suffering and dependence have reduced

them. While therefore it is partly true that men and women put off marriage for motives of prudence in order not to encroach on their surplus income and thereby diminish their margin for amusement, while, for instance, to put the point crudely, a man may prefer his golf to a wife or a motor to a family, yet it is clear that deeper causes of delay must be sought elsewhere. Where they must be sought is in the facts of marriage, including of course the spirit in which it is approached and regarded by those about to marry.

It is of course obvious that in peoples with whom passion is only a minor ingredient in life, the mere impulsion or inducement of the sex instinct does not force men and women into permanent union in the early years of life. It is apt to be felt in a slow-moving sort of way as what is rather a sentimental inclination than a thing which grips and seizes the whole self. Hence the inducements to marriage are more the thought of a well-ordered household, a better standard of comfort, and mild and easy companionship than any deeper stimulation. It becomes therefore to no small extent a matter of calculation when and whether the time has come to make it worth while to risk setting up house. As a sentimental inclination is nothing that carries people off their feet, they are prepared to submit with equanimity to long engagements and one sees men and girls, who think themselves quite seriously fond of each other, willing to meet on more or less intimate friendly terms and nothing else for months and even years before they finally decide on getting married.

On the other hand it has also to be admitted that the average young woman in these days neither has any great desire for marriage herself nor offers much to an intending husband. She believes in what she has been trained

to call "independence." She has little artistic or emotional capacity or value ; and she has neglected the duties of domesticity and looks upon food and the kitchen as intolerable nuisances. She is neither a mistress nor a housekeeper. In these circumstances it is hardly surprising if marriage is not a great success.

It is of course true that there are other types of men and women in England also. Those are the men whom one finds scattered in the solitary outposts of the Empire, men who lead expeditions across the icy stormy heights of Karakorum to Turkestan and the Gobi Desert, or search for Stone Age tools in Mongolia or Abyssinia, men who hunt or play polo, shoot big-game or fly in aeroplanes, men who navigate the ships that are the Empire's greatness, men also who guide affairs, administer and govern. Among that class at least there are many who are not cold, men who know how to love and do so, men who will plunge wildly on a card or risk all for a woman's smile. These are men who still bring to our own age something of that breed of Englishmen who made the spacious days of Queen Elizabeth, or, if they come of other race, something of the stiff-necked obstinacy and adventurous restlessness of the Tyrian merchant-sailors or the Maccabees. There, too, one still finds women who know the discipline that gives a finer freedom to the soul and have an energy that consumes itself for higher purposes, women who are taught in childhood to have quiet graceful manners and to obey, who learn to respect a father whom they see controlling a large estate, honoured in Parliament, or perhaps governing a great dependency, or who are at any rate bred in a society of equals in which true and natural superiorities, whether of age or strength of mind or body, should alone be admitted and recognised.

Such women, like their men, do or at any rate can appreciate higher nobilities and more enduring values. They do accept the natural relations of man and woman readily enough and claim from life those loves and passions without which life itself would be only dust. Among them or among those next below them in the social order, where the same principles penetrate, one finds those women—all honour to them!—who go with their men to India and East Africa to bear hardship without a murmur and sickness or suffering with a smile, who find a stimulus in danger and face painful and solitary death with cheerful gallantry. They are helpful and diligent, never disturbed and never dismayed, prompt in all they order, efficient in what they undertake. In social management they are unsurpassed and they achieve economy of effort with a maximum of smooth and easy accomplishment. Some of them even reach understanding and sympathy with other lands and peoples. Such are the men and women who make the name of Britain great and who among other things make married life a thousand times happy and successful in spite of every handicap of law and custom.

These, however, constitute a fraction only of the nation. On the whole it is true that modern English men and women seek little in marriage and are commonly dissatisfied with what they find. That the men are also to blame must be conceded. In English life in the past the woman was always sacrificed to the man or, at any rate, life was arranged in the main for the man's convenience. Men in consequence took few pains to comprehend the temperament and in particular the sexual needs and characters of women. Many of the consequent ideas and feelings still persist, but they find themselves jostled and pushed aside in the restless rush for inde-

pendence and the egalitarian license of the times. The result is that no one quite knows where he stands. The ways have shifted, but the old signposts are still left on the moors ; the storm blows and the clouds fly past ; and there is no light before the traveller's eye.

In the spirit, therefore, in which married life is viewed and approached there are sufficient elements of discontent. But, as if that were not enough, other more easily preventible ground of uneasiness have been added. These are to be found in the uncertain and unsatisfactory state of the law of marriage.

## CHAPTER XVI

### THE ENGLISH LAW OF MARRIAGE

THE law of marriage in England is imbued with the character of English law in general. It is essentially tentative and opportunist: it is modified and enlarged by precedent; it is extraordinarily complicated and confused; it is not and perhaps cannot be codified; it shows few traces of constructive principle or design. It has often been a subject for pride that English legislation is the legislation of a practical people who deal with facts as they arrive, and that action is habitually undertaken in the spirit of compromise. Unfortunately this has too often meant that nothing is done until a nuisance becomes intolerable, that even then as little is done as possible, and that forethought and a reasoned comprehension of cause and effect are constantly disregarded. Abstract thinking is distrusted, and "doctrinaire" is a word only less opprobrious than "clever" in the vocabulary of political life. The law of marriage also bears the marks of piecemeal construction and of piecemeal alteration. A new wing has been added here; a Gothic tower built on there; something has been taken away from the disused battlements; a front drive and avenue have been made and the moat filled up; but the edifice remains fragmentary and inharmonious. Of clear and consistent thinking at any rate there is little enough to be observed.

After the Reformation until the last fifty years there was perhaps only one leading principle to be discovered in the marriage laws of this country. This was the simple one that the wife was a chattel. The law held, as living men and women also held, that the wife belonged to her husband. She was his in the same sense as his horse or his dog was his. There were some who would have liked to have seen a man hanged for stealing a wife, as he could be for stealing a sheep. The view was perhaps not quite so contemptuous as it sounds, for it at least allowed the wife a value which could be estimated in good hard coin of the realm. This attitude of regarding a wife as a belonging or a chattel still survives in common manners of speech. Even in the upper and presumably educated classes it is still ordinary enough to hear people, not otherwise obviously deficient in intelligence, speaking of a man who has an affair with a married woman as "stealing another man's wife," and demanding his punishment as if he really had dishonestly deprived the other of something that was his property. The attitude has also survived in the quaint institution of "damages" in divorce proceedings. Under this institution a husband whose wife has deceived him, as it is called, by taking a lover, is able when he proves the adultery in open court and thereby publishes his misfortune or dishonour to the world, to receive from an indulgent judge and jury an order to recover a large sum of money from the lover, in consideration of divorcing his wife and thereby leaving the couple to continue their affair together. It amounts in fact to the transfer of the woman from one man to another in consideration of a payment, or, at any rate, to an acceptance or ratification for money of a transfer already made by the woman herself. As a legal enactment this is not



exactly pretty ; but that the process should be made use of and such payments accepted by men some of whom are of position and of decent family, is still less edifying. That such a custom continues and is tolerated in otherwise good society is, of course, due to the survival of ideas of ownership in women—as in the other domestic animals.

Under the legal system of the past the English wife had no legal entity. In common law her legal existence was suspended during marriage and was incorporated in that of her husband. She had no rights over property, no rights over her children, and not even any rights of inheritance, if her husband cared to make a will leaving his property (including what he had obtained from or through her) to anyone else. Moreover, in the past there was strictly speaking no law of divorce. And it is indubitable that a free divorce law is the charter of womankind. It is women who lose most when divorce is difficult to obtain. It is they whose gain is greatest as divorce is made easier. From the date of the Reformation there was no procedure known to the common law of England that recognised divorce ; there was no court which could pronounce a decree ; there was no tribunal which would recognise a dissolution effected by the parties ; there was one method and one method only by which a marriage might be dissolved. And that was thoroughly illogical. The Parliament of the realm, if it so pleased, could pass a private Act declaring that a certain marriage was thereby dissolved. But this method was costly, cumbersome and inconvenient. Before the House of Lords would pass the Bill, it required as preliminaries that a civil action at law should be fought and won against the co-respondent for damages ; and, secondly, that the petitioner should have obtained a

decree from an ecclesiastical court for separation *a mensa et toro*. Now in England the ecclesiastical courts never gave such decrees except for adultery, which, when the wife was the petitioner, had to be aggravated by other serious offences. Therefore, except when such other offences were present, it was certain that the House of Lords would always refuse a Bill promoted by a woman. Even such a decree as could be granted was difficult to obtain as the ecclesiastical court invariably insisted on having two witnesses, while it is obvious that people do not as a rule commit adultery in the presence of more than one spectator. At the best, the proceedings involved in obtaining a divorce lasted over years. In all the cases which can be traced, the lowest costs incurred were seventeen hundred pounds. In Scotland during the same period under the less irrational Scottish law the costs incurred in getting a divorce averaged about twenty-five pounds. No doubt there was greater poverty and also greater thrift in Scotland. But, even if England was richer, it is clear that an expenditure of nearly two thousand pounds tended to put divorce beyond the reach of working men and women at a period when they were willing to risk hanging for the theft of a few shillings and when, for the few pence they earned, children were being flogged to death in mines and factories. As a matter of fact only two hundred divorces were granted by Parliamentary Bill during the whole period of nearly three hundred years that the procedure continued. Of the total number only three or, allowing for one doubtful case, four Bills in all pertained to women, who succeeded in obtaining divorces on their own petitions.<sup>1</sup> It will hardly, one imagines, be claimed by even the most hardened up-

<sup>1</sup> Howard. *History of Matrimonial Institutions*, II, pp. 105-108.

holder of the sanctity of the marriage tie and of the preservation of the home, that this low number of divorces was due either to the general happiness of married life or to the high level of national morality. Apart from the question of expense there is ample evidence in pictures and novels and even in the Government records and statistics of the period to show that for the greater part of the population the second half of the eighteenth century and the first half of the nineteenth century were periods of unutterable misery and black despair; that the home was in general a den of unrelieved cruelty and wretchedness; and that marriage as practised could have anything good said of it only if it was compared with the alternative of the bagnio or the stews. Those were periods of wretchedness, of brutality and vice. The country was festering with misery and debauchery. Such were the surroundings in which a rigid marriage law subsisted.

The year 1857 saw the first of those laws which recognised that even a married woman might still possess some rights. In that year the first law of divorce was passed which had existed in England since it became Christian. It is true that this act only recognised the rights of women, as it were, by accident. Not until the series of Acts that gave a married woman rights over her own property, was she recognised as having a separate legal existence. With the Custody of Infants Act in 1886, the legal recognition of her existence went a step further. Before that date the English mother had no rights at all over her children. By the Act of 1886 though she may still be altogether excluded from guardianship by her husband's appointment, she is otherwise allowed to act as guardian if there is another guardian as well. Indeed, the law is now so tender to her interest that she

is herself allowed to nominate a guardian for the children's protection after both she and her husband are dead. So far, in fact, does this tenderness go that the law even allows her to apply to a court for orders on any question relating to the custody of her children and in such a case the court will often look to her wishes as well as those of the father.

The first objective having once been seized, many of the old positions were rapidly abandoned. Some of the former front line continued to be held, but many trenches were carried by the charge of modern thought. Woman ceased to be regarded as a chattel. Indeed, in many respects the law now passed over to the other extreme. A wife began to be regarded as if she were a free and isolated individual living for and by herself alone without duties or responsibilities to a joint concern. But, as inevitably happens when legislation is attempted piecemeal to meet occasional cases and is not shaped consistently with any principle, the provisions of the law as they now stand are in many respects contradictory or incoherent. Thus, for instance, a wife now has the widest possible rights in regard to property earned or inherited by her. She can sue or be sued in her own person. She can enter into contracts with all and sundry and is even allowed to form contracts with her own husband. This it may be incidentally noted is a point in which English law has now gone far beyond the law of Scotland. In Scotland, though a woman was at no time subjected to her husband as she was in England for three centuries, yet the law has remained practically unchanged since the Reformation. In general the law was reasonable and not illiberal and that extreme swing to unfettered individualism, which has now taken place in English, has not occurred in Scottish law. Thus a

wife's deeds or contracts still require her husband's consent in Scottish law as they have always done.

A consequence of the swing over to individualism and the want of any considered principle is that in England there is strictly speaking no common or joint property of man and wife, or, more correctly, there is no recognition of conjugal community except in the assessment of income-tax. Then most unfairly the wife's earnings are merged in the husband's income, though both are otherwise entirely separate estates, and both are thereby rendered liable to a higher rate of tax. To make the position even more ridiculous as well as more inequitable, the finance laws and the revenue authorities again regard the same properties as entirely separate and distinct, when one of the two dies and the question of estate and succession duties arise. Otherwise there is nothing at all corresponding to the *régime de communauté* which is recognised in the legislation of those European countries that have been affected, however slightly, by the principles of French thought and law. One of the results is that a wife has no assurance that she will succeed to anything at all when her husband dies. It is true that, if he dies intestate, she will obtain one-third of his unsettled property ; but it is perfectly open to him at any moment to draft a will by which she will get nothing at all. Most men make wills, and it is a gamble how much or how little will be left to wife and children in the testament. Similarly the wife also is at liberty to leave her own property away from her husband and such cases often enough occur. On the other hand, by an extraordinary and cruel inconsistency in the case of divorce, if the husband is the successful petitioner, the wife may at the discretion of the judge lose even her own property in whole or part as well as her rights of succession to her

husband's property. This anomalous, not to say perverse, provision is intelligible only when the special history of divorce in England is studied ; for it is a reversal of what one would expect to be the natural rule, and of what is in fact observed by other nations. The natural thing, of course, would be that the person who seeks the divorce should abandon or lose his or her claims to a share in the property of that other partner of whom she or he is voluntarily getting rid. But in England divorce is still regarded in an upside-down sort of way, not so much as something sought and gained by one party but rather as something imposed or inflicted on the other. In other words, it is regarded as if it were a punishment for an offence and not a relief from discomfort.

What, in fact, has corrupted the whole law of divorce in England is exactly this conception of it as a sort of punishment. Germanic custom had made marriage dissoluble by the adultery of the wife. The Protestant reformers, coming mainly as they did from the German tribes, admitted this custom into their interpretation of Christianity, though in most other respects they actually maintained the teaching of Christ regarding its indissolubility. Not only this but, because adultery had been a crime among the German tribes, it was turned into a crime in the doctrines of the Reformers also. Hence by a kind of inverted logic it was pronounced that, as among Protestants divorce could be obtained for adultery which was a crime, so it must be held to be a punishment for this criminal and reprehensible act. This principle was preserved in England by the Act of 1857 which for the first time instituted a divorce court in this country. The Act of 1857 indeed was no reforming law. It did not alter the theory of divorce. It did not modify

the principles or prejudices on which it might be granted or refused ; it did not change the conception of matrimony ; it made no concession to new ideas or advancing opinions ; it took no note of the French Revolution and all that had ensued in the whole spirit of European culture. All that the Act of 1857 did was to substitute a proper judicial tribunal for the hearing of divorce cases in place of the dilatory and irregular tribunal of the British Parliament. It accordingly facilitated divorce procedure and made it cheaper. But it did not interfere with the grounds of adjudication. Ireland was still left in its former state and divorce was there obtainable only by a private Act of the Imperial Parliament following upon the judicial separation obtained by decree of the Supreme Court. In England the grounds for divorce continued, broadly speaking, to be adultery on the part of the wife or, on the part of the husband, adultery coupled with cruelty and desertion. It is, however, incidentally worth noting that, unlike the Semitic religious law from which it professes to be derived, English law requires no direct proof of adultery, and is satisfied with circumstantial evidence from which the inference may more or less fairly be drawn. In the majority of cases the result is probably sound enough ; that is to say, the parties have either committed the act or wanted to do it. Where it breaks down, however, is when the usual rather dull middle-class jury has to deal with parties of higher standing and more refinement. The inferences made in those cases and sometimes supported by judges, who seem to have accumulated less experience of human nature than legal learning, have not seldom been preposterous and may sometimes have had tragic consequences.

Even more serious and more detrimental has been the

introduction of the doctrines of connivance, condonation and collusion. Along with these doctrines must be considered that institution, peculiar to England alone, of the King's Proctor. This official owes his existence to the hardly defensible theory that "the public is interested in seeing that no marriage is dissolved except on certain grounds," these grounds being, of course, the commission of the "crime" already mentioned. Three years after the Divorce Act this theory was enunciated in the Matrimonial Causes Act of 1860. So eager were the promoters of the Act to enforce this view that they provided on the one hand that any member of the public might intervene to point out any collusion or suppression of material facts and that on the other hand a special official with his staff was appointed for the special purpose of spying on the parties in the six months that elapsed between the decree *nisi* and the decree absolute. During that period he was to play the nose-trying part of scavenger in the social sewers and fish for evidence of agreement between the parties or subsequent "misconduct" by the successful petitioner. If he caught anything in his malodorous task, the divorce would be rescinded and the parties packed off together like cat and dog in a bag. The system sounds as if it came from Laputa or could have been invented only by people with a permanent twist to their minds or noses. But it still is the law of England. It is perhaps the most immoral portion of the law; it certainly is the most offensive.

In a twisted sort of way, however, the whole doctrine of collusion hangs with or from the view of divorce as being a punishment for an offence. Were this view true, then of course every petition for divorce must necessarily be vindictive. The only reason for applying could be to make some one else suffer. If it were true, the first



condition before a man could apply for a divorce would be that he must have ceased to be a gentleman.

The real facts are fortunately different. First, in spite of all the pressure of a public opinion artificially trained to this way of thinking, not every man rushes to divorce his wife simply because she has been "unfaithful." Still less is every woman so hasty or so foolish. There are men who really love their wives, and, loving them, do not wish to lose them altogether whatever may have happened. Such a husband will not throw his wife away, whether out of spite or out of shame. He will suffer tortures, he will writhe in pain : if he is violent he may beat her, strangle her, kill her ; but give her up, divorce her, pass her to another, that is the very thing he will not do. And, if this is true of men, it is truer still of women. No woman—if she has any feeling left and is not a mere recording station of society's wireless waves—no real woman would ever dream of getting rid of a good husband whom she liked because he had an affair with another woman. She is far more likely to poison the other lady—or at least her reputation ! Moreover, apart from love it must be borne in mind that after all, even in the twentieth century, there are still some men left who are good and faithful Christians, men to whom Christ and His teaching mean something real and alive, who strive humbly to follow the lessons of loving-kindness and charity and forgiveness. To such a man—all honour to him—an erring wife will rather be a soul to comfort and support than a criminal to cast off beyond redemption. Hence it follows that divorce is often claimed on the ground of adultery because it is the only ground accepted by the courts, when the real reason is that life in common had in any case already become unendurable. But here again it is

notorious that, if the couple still preserve some respect or friendship for each other and if financial disputes do not embitter the quarrel, the husband (if he is at all a gentleman) will himself provide the necessary adultery, whatever the wife's faults may have been, and enable her to obtain the divorce as against him in an undefended suit. For fortunately a man's infidelity does not count seriously against him in life as it does against an unhappy woman. Hence, as the wisdom of the law refuses divorce on other grounds however serious, the only thing to do is for the man to provide the one permissible reason when both parties have already decided that common life is no longer endurable.

But here account must again be taken of the doctrine of "collusion." The rich with the help of an intelligent solicitor are, of course, tolerably safe from the attention of the King's Proctor. But in the poorer classes, if the husband does behave decently in the way described, the chances are that the conditional divorce will be withdrawn and not made absolute. It will also be withdrawn, be it noted,—and this is perhaps the most perverse provision of the lot,—if for six months after the divorce the party obtaining it does not live in strict chastity, even though there no longer exists any one in his or her life to whom chastity or fidelity is owed. How much better, would England only adopt those words which dignify the Norwegian laws: "Divorce is release from misfortune and not a crime."

There are other anomalies, of course, by the score. There is the anomaly, for instance, that the man must go on paying alimony, once it has been decreed, to a wife who has herself divorced him, even if she has remarried. Then there are all the fantastic fictions which gather round the "restitution of conjugal rights." And then

there is—but there is no end to all the futile fripperies of the tragic farce !

As the law stands, therefore, divorce in England is obtainable, one may say, only on the ostensible ground of adultery ; and nullity for impotence only. Divorce is not obtainable for desertion, for cruelty or on account of lunacy ; it is not obtainable even for crime followed by lifelong sentence. And above all in England it must never be forgotten that the one, final, grand, insurmountable cause for refusing divorce is that both the parties want it ! That they are both agreed, if it is known, is fatal ! Prove that and the divorce can never become absolute ! Only one thing is equally fatal to the chances of relief ; and that is to be poor. Be poor, and you must put up with everything that comes your way. Divorce is not for the poor, neither is it for the truthful !

There is obviously a great deal to be done before the marriage law, even within the limits imposed by the present conditions of thought and economics in the country, can approximate to any standard at all rational and equitable. The law of succession would, of course, have to be revised and freedom of testamentary disposition curtailed. Then in regard to divorce the Royal Commission presided over by Lord Gorell, whose report was published in 1912, has with great ability and clearness expounded those reforms which at the very least are needed at this juncture to save English marriage from immediate and discreditable failure. The main recommendations of the Commission are the following. The grounds for divorce should include in addition to adultery,

- (a) Wilful desertion for three years ;
- (b) Such cruelty by one married person to the other as makes it unsafe having regard to the risk of

life, limb or health, bodily or mental, for the latter to continue to live with the former ;

- (c) Incurable insanity under strict safeguards against abuse ;
- (d) Habitual drunkenness proved to be incurable after three years ; and
- (e) Imprisonment for life in commutation of a death sentence.

The commissioners also made suggestions for the extension of decrees of nullity whose causes would then include pregnancy, insanity or fraudulent concealment of venereal disease. It is true that these grounds would logically be grounds rather for divorce than for a declaration of nullity, which implies that a marriage never has existed, but that they should be grounds of dissolution will hardly be denied by any one who accepts that marriage may be dissolved on any ground whatever. Taken together, the recommendations of the committee are of a very moderate order. They would make no radical change in the English marriage system. They do not even admit that ground of mutual consent, which in the abstract would appear to be the most natural of all reasons for divorce. But they do represent the minimum which would make marriage as a legal institution among people of the character and education of the modern Englishman or Englishwoman something tolerable,—one might almost add, something decent. It is to be hoped that the changes recommended will speedily become part of the law of the country. Unless they do, as public opinion and education now stand, there can be no question whatever but that marriage will with increasing rapidity be the object of general contempt and will increasingly be rejected in favour of other unions which owe nothing to legal or social recognition.

## CHAPTER XVII

### GENERAL CONSIDERATIONS

**T**HE leading systems of marriage as they are in the old world have now been examined. They have been examined both in their formal or legal aspects and, what is perhaps even more important, in the spirit in which they are regarded both by public opinion and by the two persons who by their contract join their destinies together. In that act at the lowest interpretation they make an indelible imprint upon their own and on each other's personality : they bring offspring into the world : they project their own being into another generation : they transmit their heritage of body, character and social reaction : they continue the race. If life is regarded from an idealist outlook, it is permissible to add that in marriage they lose their own individuality to find themselves enlarged and ennobled in their love as coherent and co-existent members of a more significant unity, of which they form together the living soul.

The one system which has been omitted from the conspectus is that of the United States. It has been omitted for a variety of reasons. The first but not the most important is that it is not one but many systems. Each of the States which constitute the Federation is entitled to keep its own marriage laws and most of them have used the privilege to keep them distinct. The laws

of marriage therefore vary to an incredible degree within the vast territories now comprised within the Union. To take only one instance of diversity, divorce is entirely prohibited in one State, while in another it can be obtained with automatic precision in a few days for almost any motive. But the main difficulty in attempting a description is that it is almost impossible for the foreigner, at least without years of intimate acquaintance with Americans at home in every region of the States, to grasp what is the predominant attitude to marriage and what type of sexual union it is which really meets with the approval of the majority of those different social groups which the citizens of the States compose. The foreigner, if he is candid, must confess that he finds himself in surroundings so infinitely different from anything to which he is used in Europe or in Asia, that he is quite unable to form any picture of the national manner of thought. It seemed best, therefore, for the writer to omit the States at present from any general discussion of love or marriage, and leave them with the mere statement (which is indeed the truth) that their sexual code is not yet clear, distinct or unified.

From the facts reviewed it is presumably plain that the form of sexual union between man and woman approved by the social groups to which they belong not only is not now, but in the nature of things can never be, one and the same in every group or country. The groupings of human beings do not take place at will in a void and unfilled space, as bricks may be put together on a vacant plot of ground to build a wall. They are adjusted by an infinity of forces, an infinity of relations. The child is born to a place already demarcated, where by the mere fact of living he is the focus of incalculable actions and reactions, out of which, with

some faint semblance of free will, his soul or self is shaped as he grows up. He exists only in relation to a vast system of social, political, and economic forces from which there is no evasion, and to innumerable, slowly-moving, slowly-altering customs and traditions which govern the group to which, whether he like it or not, he is forced to belong. Into these he has to fit those other relations by which he will try to satisfy his sexual needs, their idealisation as love and his instincts to possession and parenthood. But the environment, in which he has to fit with all his needs and cravings, is not the same in every region of the world. It is not the same for the Englishman and the Frenchman, the Spaniard or the Turk, the Catholic and the Mussulman, the European and the Asiatic. Hence it is not possible to suggest that of all the kinds of marriage which actually exist any one would necessarily be suited to every social group: or indeed to assert definitely that any one is of itself better than another in their application to existing peoples. They can be judged only in relation to the circumstances in which they exist: every judgment must be relative. In particular the value of each type of marriage must be estimated in relation to what the governing majority of the social group to which it pertains desires to find. Some people are more readily satisfied than others. It is easy for an observer to make the mistake of supposing marriages to be unhappy because they give less than he himself would expect in such a relation. It is quite possible that as a matter of fact the husbands and wives concerned never expected more and are quite contented.

It must also be admitted that every form of marriage or, in other words, every form of sexual relationship which can be approved by a social group of stable and

well-developed character is intrinsically bound to contain contradictory elements which it tries to overcome and transcend. In its very essence it must be an attempt to combine sexual union, which in itself is passing and ephemeral, with the permanence of a family. Further, it tries to provide for individual freedom while at the same time securing control by parents, and in many cases by the State over the couple who unite and the children who are produced. It is also an attempt to combine physical desire with the needs of mental and moral companionship ; love with prudence ; the gratifications of youth with the comfortable stability and well-being which is required by age. It must allow room for personal development in combination with ordered discipline and self-sacrifice for the good of the whole family or people. All this it has to do within the narrow limits of some formulary which can be readily recognised and defined in legal language, in order to ensure the easy adjudication of cases in which the nature of the union or its incidents is in dispute. It is hardly matter for surprise if, with so many diverse and even contradictory elements to resolve, one system after another has proved unsatisfactory, or if the couples who experiment within those forms so often come to grief or at the best fail to achieve anything within measurable distance of their aspirations.

Must one therefore conclude, where everything is relative, that no scale of values can be applied ? that there is no room for moral judgment between one and another ? no goal for hope and striving ? and that in short " all is for the best in the best of all possible worlds " ? Not so. For it is not impossible in relation to human nature and human needs as a whole to establish what in general must be sought from a relation that joins men and



women so intimately. It may even be possible by reasoning and inference to suggest, in perhaps a manner rather vague and nebulous, what would seem to be the ultimate or highest visible ideal for a union which for many ages to come cannot perhaps do more than raise itself a very little higher by shedding some unnecessary weight and baggage.

In a book written by an Englishman it is of course inevitable that the main practical interest should be concerned with Europe and more especially with England, and with the possibilities of improvement and nearer approach to ultimate ideals in the current marriage systems of these countries.

So regarded, one of the main problems undoubtedly is to what extent in the future the Civil State should regulate and control the institution. At the present moment in every European country the State interferes in most particulars with marriage and its dissolution : but it often interferes in an incoherent and anomalous manner. It must be clear, however, that there is no absolute reason in itself why this should be the case : there is no intrinsic reason why public officials and all the machinery of the offices of State and of a State judiciary should be moved in the matter of their subjects' or fellow-citizens' sexual relations. It is true that a marriage implies social approval by the community or the social group. But there is no particular reason in itself why this approval should be conveyed by the official State or why the State must necessarily control the methods by which it is sought and obtained. Outside of Europe the State has generally remained aloof both from marriage and divorce. It cannot be denied that in Europe, as it is at present, the whole code of matrimonial regulations is at a transition stage, which is peculiarly uncomfortable,

and that much of the discomfort is due to the very fact of civil intervention in marriage.

The State control of marriage, which among other things is embodied both in the procedure of civil marriage and in judicial procedure for divorce, has been objected to on two counts—by those who wish sexual unions to be approved which should be free from every restraint and by those to whom the meaning and value of marriage lies in the religious sacrament.

That those who adhere to the standpoint of the Church should object to the independent interference of the State is natural enough. From that point of view the State must either stand aloof entirely, leaving it to ecclesiastical courts to decide disputed cases, or should be only the minister to execute orders passed by these courts. Obviously, if the laws propounded by the Church are the laws of God, no human legislator should dare to alter or abrogate them. If they are binding on all true Christians, then no decrees of kings or parliaments can loose them. Most of all does this apply to the refusal of divorce, on which subject the very words of Christ are extant.

In logic this argument is unassailable and certainly it is difficult to have patience with those muddle-headed people who desire to hold to the benefits of the Church but at the same time take advantage of innovations introduced by the commonwealth. What induces a professing Christian, for instance, first to obtain a divorce and then to claim to be remarried in church or to partake of the sacrament is surely unintelligible. Either he believes, obeys the words of Christ, and follows the teaching of the Church of which he is a member—and in that case he claims no divorce; or, if divorced, refuses to accept the judgment: or else, following the

methods of a liberalising State, he should assuredly profess himself a free-thinker and reject communion in a Church from which he has turned away. Each man is free to make his choice. But what ought to be repeated a hundred times is that a believing Christian is bound in this matter by the Church and by no government of men: and that he who prefers the arguments of the understanding and the transactions of statesmen and administrators must abandon his title to creed and faith.

But in this matter it is also difficult to see why it should not be possible to meet the wishes of the Churches to a greater extent than has usually been done in modern Europe. There seems to be no reason—except hostility and a malignant desire to annoy—why a marriage duly celebrated in church should not be everywhere accepted as valid: or why, as in most European countries, a further celebration before a civil official should be required by law. Nor can it ever be right to compel a priest to celebrate the nuptials of those whose wedding is forbidden by the rules of his Church or to admit to the altar for this purpose persons who are not of the fellowship of Christ or are not in a fit state for the sacrament. The State would be well advised to leave the actual celebration of marriage between professing and believing Christians to the authorities of the established Christian Churches, being satisfied with a mere intimation of the occurrence for its official records. The State is obliged to provide only for the civil marriage of those who are not believers or have merely a vague Christianity, and perhaps of those, too, who profess the dogmas of some disorganised and petty sect. It is for these classes of its citizens that non-religious marriage and the means for its dissolution must be provided.

The other objection to State control of marriage is

urged by those who call themselves advocates of free love. According to them the sanctity of any union depends upon the feelings of those who enter upon it : and, when those feelings change, the sanctity also departs. Hence, they argue, no external restraints should be imposed. Persons should be left free to join and live together when and as they like : the State should make no attempt to regulate marriage. They usually overlook the fact that such free unions already exist everywhere and are not prohibited by any law.<sup>1</sup> The only thing is that they are not generally considered respectable. For some recondite reason the advocates of free love want them to become respectable as well. They wish to eat their cake and have it at the same time. They do not see that universal approval would mean as good as none, since there would be no differences made and nothing disapproved : and that, if civil marriage were abolished, the public would have at once to start some other method of distinguishing right- from left-hand unions. It is noticeable that these free-love theories usually emanate from persons of a pappy " intellectual " cast of mind with little physical strength or stamina, who have had a mental surfeit of individualism, social democracy and the like : persons, too, who come as a rule from countries where love is not a constant pre-occupation. It is also noticeable that, when persons of this kind have lived together without marriage, they have usually bound themselves in a bond even more rigid and more austere than that imposed on marriage by the laws of their country. What they personally have gained is therefore hard to see, beyond the satisfaction of thinking themselves cleverer, wiser and more enlightened than their neighbours. Common sense

<sup>1</sup> Except in the more backward parts of the United States.

they have certainly not shown. For to common sense it is obvious that the ordinary man and woman could never be left without rules or regulations in such an important matter and in a matter which so closely touches their prejudices and interests. Without definite laws and sanctions there would be nothing to repress evil impulses : and cruelty, adultery and desertion would be vastly commoner than at present. Besides, there are children to be considered, though the latest advocate<sup>1</sup> of socialist theories was capable of writing a whole long book on marriage without once mentioning the word. The interests of children, at any rate, make definite rules for guardianship and responsibility, succession and inheritance necessary. And as soon as any rules of the kind are applied by government, the State to that extent takes cognisance of the union and controls its consequences.

The fact seems to be that (whatever the conclusions which result from abstract thinking) in Europe, at any rate, the course of history and the burden of tradition render it impossible for the State to dissociate itself entirely from unions on which the existence of the family and the transmission of property equally depend. To the modern European, looking back at all the centuries of Europe with its close-woven texture of thought and culture, conscious of all the past which has moulded him and his world to its present hue and conformation, it is not possible to conceive of marriage and all its consequences operating without the active consent and controlling authority of the organised community by its legislature, its executive and its judiciary. It is part of our general conception of life : it is an integral portion of our constant and unbroken habit of thought.

<sup>1</sup> Monsieur Blum.

This conclusion is supported by the practical understanding. In other religions, in Islam at least, the scriptures themselves contain detailed prescriptions for the ordering of succession and all those matters which form the subject of matrimonial jurisprudence : and the words revealed by the prophet amount to a code of legislation. But the Christian gospels were directed to the spirit and not to the letter : they called for a change of heart : they prescribed no procedure. It would have been possible, of course, to leave it to the Church to deduce and apply rules for these purposes and to adjudicate through ecclesiastical courts on cases as they arose, the civil government being a mere minister to execute their orders. That indeed for a long time was and perhaps is even now the ecclesiastical ideal. But it is in accordance with the European tradition that the government of the nation must remain sovereign in this as in other respects. It might still perhaps be possible for the State to abrogate its sovereign rights in favour of the Church as between professing Christians ; and in their case content itself with registering and executing the orders of ecclesiastical courts. In some countries indeed the State does little more. But, though just barely possible, this is hardly practicable, at the moment. For one thing, it would create a situation which, given the European tradition, would appear almost intolerable, if two different legal codes were openly applied in one and the same nation according as the persons affected or one of them were or were not professed believers. Furthermore, the complexities of a modern industrial community with its general disintegration make it unhappily impracticable for the State to divest itself of responsibility for the marriages of any section of the nation, whatever its creed. Indeed, it may well be doubted whether, even

in those countries in which the State has so far disinterested itself from marriage and its dissolution, it can much longer stay aloof in the surroundings of a modern industrial community. Even in the Buddhist and Mussulman countries it is likely that governments will be forced to intervene, as they become industrialised and are absorbed into the capitalist system. Both in Japan and in reformed Turkey steps have already been taken to secure the intervention of the State in some or all of the incidents of marriage. That this movement will proceed further and intervention become wider and more regular, is almost certain. The thing is that in an industrial community not only is there no direct and immediate pressure of public opinion on all citizens, as there is from neighbours in an Arab tribal camp or a Persian village, to keep them decent and redress evil and put wrong right; but the strain of earning a livelihood, the cut-purse struggle, the vicious surroundings, the unbalanced egoism would soon lead to general demoralisation without the restraints of law and public authority. In such a community marriage and divorce and the treatment of women and the care and upbringing of children simply cannot be left to private or ecclesiastic decision with all the dangers of perversity, cruelty and neglect. The State is therefore obliged to intervene and enforce a certain decency and some standard of moral conduct by its laws, its courts, its police and its prisons.

This being so, governments in Europe must continue to legislate for marriage and its incidents. Such legislation is bound to conform to the central conceptions of marriage which originated in the Roman Empire, modified as they were by Christianity, and finally liberalised by the influence of the French Revolution. But, even so, such legislation should avoid detailed regulation

or interference one step beyond what is absolutely necessary. The law must provide the minimum of protection needed by the family, the parties themselves, and the nation. But, compatible with the decent safeguarding of women and children, it should leave the maximum of legal freedom. It should not, of course, acquiesce in that insane degree of freedom which allows a husband and father in England to disinherit his wife and children. On the other hand it must not fly to the other not much more reasonable extreme of refusing a divorce when both parties want it. Within these limits it should aim at providing generalised regulations applicable to any section of the community. Further detailed instructions and the application of definite religious teachings should preferably be left to the influence of national education, the general pressure of society, and the organised power of the Church.

Now in most European countries the interference of the State has gone far enough. Elaborate and prolonged notice of an intention to marry has to be given : all sorts of papers have to be produced and questions answered : a minimum age is fixed before which marriage is not permissible : and up to the age of thirty the consent of parents or guardians is usually required. In certain countries the State will not allow marriage to be lawful without the production of medical certificates of good health. Sometimes interference has gone too far, as in the case of divorce in England, and there is an actual danger that the interference of the State may be carried further still. It looks as if the State in many cases would intervene when its intervention can only be harmful : and that under the manipulation either of one-ideaed theorists or of powerful and selfish interests its authority may be diverted to purposes of cruelty, folly, perversion



or exploitation. It has already been suggested, that in some cases the power of one party in the State has been maliciously or malignantly used to annoy opponents. But the intervention of the State has in recent years sometimes been more gravely and more tragically abused. Barbarisms have occurred like those whereby in the Transvaal and in Kenya a small minority has succeeded in putting provisions on the statute book which under severe punishment forbid any union between one class and another of the King's subjects in those colonies. That such a detestable barbarism has been permitted is a stain upon the suzerain power: the disgrace is not lessened by the fact that the prohibition is imposed by a usurping minority on the former owners of the land. Worse still is the law recently sanctioned in Kenya by the British Government by which any non-European who rapes a European woman will be put to death, though the European who rapes a non-European woman receives very different treatment indeed. That rape should be punished, every one will of course agree—but that it should be punished with death and that there should be discrimination of race or colour is a crime against the British tradition. These are cases in which the interference of the State has certainly been exceedingly ill-advised.

Here perhaps some digression on the actual procedure of civil marriage may not altogether be inappropriate. It has been accepted that some form of civil marriage must exist in European countries and be established by the State for the benefit of those who no longer adhere to any religious confession. Whatever ceremony is to accompany the entry into matrimony of the participants must therefore in such cases be performed by the civil authority. Now whatever view of marriage be taken,

even the most profane and naturalist, yet it is surely undeniable that it is next to death the most solemn and weighty occasion of life. Even on the extreme individualist interpretation it is a step which must indelibly mark the subsequent habits of life and all the progression of thought and action. But there are many persons, who, though they are severed from the Church and literal acceptance of a creed and are therefore driven to the ceremonial ministrations of the State, still see in the act of married union something more than the act of individual wills and something which is more profound and spiritual. It is surely not too much to ask that the ceremony of civil marriage should be not altogether incommensurate with such feelings. In the present practice of all nations unhappily the ceremony not only lacks dignity and solemnity but often verges on the petty and ridiculous. In France the officiating magistrate at least puts on a scarf and delivers some sort of measured allocution : the function is held at the *mairie*, and some *mairies* possess fine halls and buildings : there is, at any rate, some acknowledgment of the social and personal value of the function. In Great Britain, whether by design or negligence, civil marriage—marriage at a registry as it is called—is robbed of every circumstance which might edify or embellish. It is incalculably prosaic, incalculably sordid. It reduces what is being done to the lowest denominator possible. Instead of joyful and beautiful initiation it leaves only the remembrance of a squalid and mechanical formality, like signing a temporary lease of premises and fittings in a solicitor's office somewhere in the City. When such is the beginning, when under existing laws so little is secured by marriage, when the contract is so difficult to cancel and can be annulled for one repulsive reason only, it is hardly matter

for surprise that marriage should increasingly be avoided by those who think freely : and that it is approached, if at all, with hesitancy, reluctance and sometimes with derision.

One need only contrast the opening of married life by a religious service—the tremulous humility and aspiration, the sense of unworthiness uplifted by the hope of grace, the waiting priest, the old majestic music, the flowers and candles, the decorated fane, the presence of friends, relations, parents, the vows solemnly taken in sight of God—every adjunct that can impress and elevate the spirit. If the institution of marriage is needed and if, on the other hand, it is recognised, as it must be, that an increasing number of persons is unable to accept the limitations of creed and an explanation of the universe which they no longer find compatible with the flights of human reason, then at least the State which is responsible for the alternative form of celebration should ensure that it is made no less beautiful, no less impressive, no less solemn. There is in itself no reason why the special officials of the State need be less capable of attaining a worthy and ordered dignity than the ministrants of the Church, nor any reason why the nuptial halls of the great public sanctuaries of the nation should be less dignified than those devoted to the offices of religious service.

The great problem in Europe is indeed to reconcile the need for some approved, stable and ennobling type of sexual union with the legal freedom reasonably required in countries where a considerable number of the inhabitants and especially the best educated among them have outgrown the dogmas of any Church : and where in particular the view of sex as in itself degrading, which unfortunately entered Christianity with St. Paul,

is no longer acceptable. The family is the unit on which the long, slow, steady history of the race has been built. Culture, security, moral good, civilisation itself rest upon the family : and marriage is its foundation.

It must be acknowledged that there are higher things in life than gain or comfort—higher things than power or luxury or position. The indissolubility preached by the Church had this at least to its credit that it offered something above the accidents of earth, something that was a summons to a loftier virtue, a finer abnegation. And it brought with it one reward which cannot be gainsaid. When people believed their union, with all that followed of good or evil fortune, happiness or suffering, to be the immutable decree of an inscrutable Providence, they did at least make the best of things without vain and fruitless repining. In average cases the belief that marriage was a relation established once for all which could never be broken, did undoubtedly make for greater forbearance and a readier toleration. But one condition was necessary : that there should be a real, felt and fervent faith in God and God's will. That faith is no longer generally felt, that belief no longer held—and without it indissolubility in the strict sacramental sense is untenable. Moreover, though it was advantageous in the average case, it might be cruelly oppressive in exceptional or hard cases ; and those were far too numerous to be passed over with an easy conscience. They might be mitigated, as they were at one time, by a free interpretation of the rules of nullity ; they might be mitigated, as they often are, through the charity and liberal comprehension of humane and experienced churchmen, by recognising that those who are indissolubly tied in an unhappy marriage are almost bound to console themselves with other affections outside and that therefore the sin should no

be too rigorously visited and a kindly eye turned to the offence, if offence it be. Kindness and charity and the certainty of absolution, where there is penitence for the sin forced on one by the circumstances, could at least go some way to alleviate an otherwise too cruel situation. What in modern Europe and especially in those European countries where a less kindly tradition has been followed is now needed, is an ideal no less lofty but erected upon an understanding of the human soul and human nature more broad and thorough. Such an ideal also would embrace permanent and devoted service by each of the spouses to the other, enriched by a fuller recognition of the need and value of love, physical as well as spiritual, but with fuller legal freedom given and superfluous formal bonds cast off. The marriage of the future must not be a slavery, not a bondage. It should include the frankest recognition of realities, the claims of love, for instance, and physical desire, the needs of joy, the rights of self and personality. There must be no unnecessary legal impediments to its dissolution when it avowedly has failed to fulfil its purpose, when it no longer is a blessing but a curse, when it no longer preserves but ruins felicity.

At the same time when love has consecrated the union and honour been its accompaniment, when vows have been taken and shared and a common position and common interests upheld, it is not too much to expect that in adversity as in prosperity husband and wife shall dwell together, whatever sufferings fall upon them, faithfully and loyally in the most intimate of all human relationships. Life is exposed to countless accidents, to disease or disaster, crime or misfortune, to loss of wealth or loss of limb and mutilation. Ease cannot be commanded nor stress and pain avoided. But when

both have been happy in their love, then cowardly indeed is he or she, who at the call shirks the harder path and the steeper hill at the side of the chosen mate. Their fellow-soldiers in the fight of life have a right to call to private account those who fall faint in their watch or are faithless to their trust, who desert their post and betray their comrade to the enemy. But to chain them to their guns, to keep them married in name where there is neither love nor religious faith, by the mere "never" of a formal law—that assuredly is not a thing worth doing.

## CHAPTER XVIII

### PROSPECTS AND RETROSPECTS

**A**S a traveller at his journey's end sits down at the roadside on the grass and passes over in his mind what he has seen during the day before he seeks his lodging and his bed, so when the record of this survey closes it is natural to reflect once more on the prospects which are discerned before the men and women of the future.

So far no single system of marriage has been found pre-eminent: all alike have failed to produce a full growth of ease and happiness. Indeed, in the whole range of human activity nothing has so much suffered from foolish fantasy and superstitious impediment as the sex relation: in nothing else have the real difficulties been so wantonly exaggerated by misunderstanding and timidity. From an early period, it would seem, sexual desires have been regarded as magical manifestations, and sex with all that pertained to it has met with the treatment reserved for a supernatural and magic power. It was alternately adored and imprecated, or abominated and repressed. Its flame was kindled alike for the altar and the stake. Elaborate and fanciful means were invented to limit or augment its force and to avert or concentrate its influence. No one has sounded the unfathomed depths of human folly who has not studied the notes of anthropologists or acquainted himself with

the permutations of marriage customs in the world. Meaningless taboos, curious beliefs and irrational observances have been taken over by every people and hallowed by most religions. It cannot be expected that these will disappear quickly under any pressure of reason or that rational methods will be soon adopted in any considerable portion of the globe. No people has the power to cut adrift from its own past and no change can be permanent and acceptable which is not gradual and persuasive.

But whatever may happen to the laws by which peoples are governed, marriage will always be something of an adventure to the individual. It can never be supposed in even the most hopeful conditions and with all existing obstacles removed that every marriage will prove successful and that cases of regret and disappointment will no more occur. Unmixed felicity does not belong to human nature and life at best is merely a struggle to win through. Marriage is no insurance against the common lot of sorrow and of pain, and the most that can be hoped is to find in it a stay and a support and not a hindrance, a solace and some joy instead of tribulation.

It must be admitted that, however the institution may in the future be altered in adaptation to an altered way of life, men and women may still make mistakes when they marry. Feelings will never be so universally refined that the right mate can be known by every one at the first glance. There will still be couples who find they have chosen wrong and must be freed. And again, however the organisation of society be improved, disease and vice will never be eradicated. Insanity will not be crushed out; there will always be drunken men and women; the criminal and the gaol-bird will exist in every country.



And so it follows that there must also be those who suffer without fault in marriage and for whom no statutory process of release, however prompt and easy, can ever be sufficient compensation. There are moral sufferings which no remedy can appease; and a soul bruised by rough handling will never regain the freshness it has lost. Moreover, modern civilisation makes now and appears likely to make in the future for conditions which in many respects are incompatible with domestic agreement. In the last and present generations, at any rate, it is certain that the invention of new machinery, the urbanisation of the people and the unending rush and stress of life have created a general and painful feeling of discontent. Every one suffers from an excited susceptibility and spends his time in a state of suppressed or explosive nervous irritation. It is possible that in time, as successive generations are born into these conditions and learn to master them instead of being mastered and bewildered by them as were their predecessors, they will use them with less disturbance to their nervous centres. In the meantime the chances of matrimonial disagreement are undoubtedly multiplied by this general irritability and discontent.

There are also certain other factors in human nature whose effects upon married life can never be ignored. The feeling of jealousy is one of these, that innate, instinctive feeling which opposes itself above all else to greater freedom in the relations of sex and will always be an obstacle to more intellectual union and more equal comradeship between men and women. Jealousy may be less or more. It sometimes reaches such cruel and perverse extremes, that it leads to the seclusion and virtual imprisonment of women or deprives a man of friendships with ladies other than his wife or wives.

Often it is artificially nourished by absurdities of social customs, or is forced on a man by the sneers and insults of companions. A husband, for instance, instead of being allowed to shut his eyes to the lightness of the wife he loves, may be obliged to resent her conduct by the pressure of unfeeling neighbours to his own infinite pain and loss. Now it is certainly true that jealousy is often an unmitigated nuisance and that its savage exhibitions should be punished and controlled. But, when all is said and done, it has to be confessed that the complicated and primeval feelings which make up jealousy in mankind cannot be suppressed. Not merely in the few thousand years of the historic age but right away back to the days of our ancestor the man-ape, and still to-day among our collaterals, the gorillas and chimpanzees, jealousy is one of the vital forces of our nature. The child is already jealous of its mother and its toys ; even the dog living in the company and domesticity of man has learnt the quality, and is jealous of its master. And shall the man not be jealous of the woman he loves, the husband of the wife who bears his name ? And can the wife avoid jealousy of the man to whom she gives herself and to whom she bears her children ? Whatever future sails before our vision, looking dimly through the glass into the ages, it is not possible to discover the shadow of any union without the burden of this incubus, nor can any communist idealism or reasoned principle of equity and fairness ever succeed in abolishing a feeling so intuitive and so universal.

It would also be childish to pretend that there will not always be many both of men and women—and among those perhaps not the unworthiest—who will demand change for its own sake. It has already been shown that there will be women under any conceivable social system,

who take to prostitution or, at any rate, to professional gallantry, because they like it and because it gives them scope for qualities of which they are conscious. But apart from them there are those who, without necessarily being dissatisfied with what they have, are also driven to more or less temporary relations with others, driven by unsated curiosity, by the lust for novelty or by a passionate quest for an imagined ideal which is always just in front and never overtaken. These are they who fall in love not once but a dozen times in their progress through life and to whom each time it seems as if this were their last love—and their first ! The case of those who possess this temperament is the most difficult of all. It is no use pretending that they do not exist. They do, and always will : and their wants have also to be satisfied. It is perhaps unfortunate that among them is nearly every one who has ever accomplished anything fine or great in the world. Where else are Cæsar and Alexander, Goethe and Racine, Rubens and Titian, Liszt and Chopin, Sappho and Ninon and George Sand ? They cannot be driven forth with contumely into the wilderness nor does it serve to howl against them, as jackals howl when the tiger walks in the forest cutting on a full-moon night. Mankind has need of them and they suffer enough as it is, since they have finer feelings and clearer thought than other men. Then again it is possible that an earlier age of marriage may lead to more numerous infidelities, though it is indispensable in order to avoid still greater evils. Late marriage means lessened chances of happiness and means also extensive prostitution. But it must be admitted that men and women who marry late are not so likely to be unfaithful after marriage, as if they had done so earlier. They have fewer years to be unfaithful in, for

one thing. And the men have already made their experiments and are tired, while women marrying late may be frozen stiff and quite indifferent. At a late age matrimony is not an enjoyment but a refuge—a corner-seat of rest, a nursing-home. The case of the young is different. Pleasures beget the desire for more: those who marrying know love for the first time may like it well and be tempted to try other kisses, if only for the sake of trying. Thus those who marry young and joyously in a happier generation will, it is likely, have to practise an easier forgiveness and a lighter toleration. Indeed the fact has to be faced that if the relations of men and women are better and happiness rendered more attainable in marriage by greater freedom and the removal of some oppressive grievances, the improvement cannot but be accompanied by much wider sexual laxity. It has been seen that chastity among respectable women and a moderately rigid standard of fidelity after marriage for both sexes is only preserved by the commercialised supply of millions of prostituted women and their promiscuous use by men, at least up to the time they marry. It has been found to be a sociological law that sexual laxity varies inversely with prostitution. When monogamy is pretty rigidly enforced, prostitution is widespread. Where married women or girls before marriage take lovers freely, prostitution almost disappears. Now any real improvement in the law and practice of marriage must aim at wiping out that monstrous mass of prostitution which is the greatest stain upon modern civilisation. As it disappears, there will be a corresponding rise in unchastity and many of the opinions which are now held about women's chastity will have to be modified. The notion that adultery is the most serious sin in marriage, if not out of it, will

have to be abandoned. Happiness can be bought only at the price of charity, forgiveness and understanding.

With that greater freedom which in truth derives from the genuine European tradition of Greece and Rome, it may be hoped that there will be a return to saner comprehension of sex and its delights, and the uses and employment of human faculties. To obtain perfect physical union and through it happiness in married life, two things at least are needed. One is that immediate overpowering attraction which is felt in a flash without explicable reason, when the true mate is found : and the second, enough knowledge and wisdom and, be it added, enough freedom from false modesty and shame to give love a fair field. No similarity of tastes, no intellectual assimilations can possibly make up to an ill-mated couple for their disappointments or repulsions. These are matters in which modern Europe has still much left to learn.

With the return to the true tradition of the Greek spirit of free enquiry and the Roman spirit of human right and liberty, there will also, it is to be hoped, be no hesitation in using those easy and harmless means of contraception which science has put into our hands. They will be more than ever needed if men and women are enabled to marry early in those years when their union is likely to be most blessed and when they can gain those treasures of happiness whose memory will sweeten the balance of their days. Those natural healthy ages in Northern Europe may be put at twenty-two or twenty-three for a man, and between seventeen and nineteen for a girl. In the case of a young man, though he will if healthy have felt his passions pretty tumultuously before, he can wait till that age, if he is lucky, without too much strain or injury, and his full

moral and mental development is hardly reached earlier. The girl at that age is at the season when her whole being waits expectantly and she will bring her bridegroom all her freshness, all her unspoilt character, all her romance. But it may perhaps be the case, as is often urged nowadays by doctors, that a girl at seventeen or eighteen is too young to be a mother with advantage either to her self or to the child. She is certainly fit for love and womanhood at that age; but perhaps not quite for motherhood. With the knowledge now possessed there is, however, no reason why this should straightway befall the young bride. It is only right that a newly married pair and especially the unfortunate wife should be given some time, a couple of years, say, to enjoy each other's company alone and get used to each other's character and shortcomings before they embark upon the more troubled sea of parenthood. A girl who marries at seventeen and becomes a mother at twenty-one has every chance of herself being happy and making her husband infinitely happy throughout life. It is fortunately easy to ensure that children should be born to their own and their parents' best advantage, when they will be the real fruit of love eagerly awaited and diligently welcomed. One knows that there are those who object to birth-control and call it impious or immoral. But it is difficult to understand these objections, which, one presumes, will in another generation or two have been withdrawn and forgotten. The objection that birth-control is an interference with God's will could be understood if it came from faith-healers and other persons with similar primitive but consistent beliefs. But it comes very ill from those who in other respects advise preventive treatment and sanitation to control disease, and who consult doctors

and take drugs when they are indisposed. Pregnancy is as much or as little the result of human action and of God's will as any other state of the body, including illness. If the mosquito-net may be used to protect those who deliberately choose to go to swampy tropics against the malaria with which it is God's will expressed through the anopheles mosquito to afflict them, then it is not possible to discover a logical motive for rejecting the analogous use of a similarly designed appliance to protect a woman against the unwanted pregnancy to which she is exposed. The real fact of course is that man has been endowed with reason that he should use it; and every new power gained over nature—"God's Will"—is a nearer approach to that less imperfect humanity which in a profounder sense it is the "Will of God" to achieve.

The great problem, however, is what the future will bring forth in the way of economic change and social reorganisation. If one could imagine anything like the present social system continuing, based upon the control of credit and means of production by a limited class, with idealism and faith in honour, virtue, and God crushed out and nothing left except a belief that food and rapid movement and gratified lust are alone worth having or working for, if one could imagine that women will be forced to go on toiling under whatever pretences of sex equality for mere subsistence and that family life and self-contained households will be impossible, and the whole of each nation except the ruling class of financiers, be condemned to lodge in flats, eat in communal kitchens and find their only relaxation in standardised diversions of a third-rate order, then truly any hope of improvement in the sexual relations of men and women must be abandoned. Matrimony must in

that case speedily lose even the meaning which still attaches to it in these days of civil marriage, childlessness, and open or secret prostitution. This, however, is happily a state of things which cannot be imagined. To any serious student of political philosophy it must be evident that the hour-glass of capitalism has run out. The world stands before a slowly revolving door which will open the way to something else so new and different that we cannot yet foresee its outlines. It may be something that derives from Bolshevism or something which springs out of Fascism ; more probably the community of the future will base itself on some compromise between the two. It will at any rate be freed from the pretences of " Democracy," and " Representative Government " ; it will have overthrown the prison walls and broken the shackles of that soulless and impersonal tyranny to which our generation has been accustomed. The fate of marriage as an institution depends upon the social compromise which may be adopted. In the violence of their present reaction against the past, the Bolsheviks have to all intents and purposes rejected and abolished matrimony. On their view no union of man and woman should be disapproved which is registered before a Government official ; every union may at any moment be dissolved at the wish of either party ; both husband and wife must go on working separately at their trades or professions before and after marriage ; the private home or household is to become meaningless and cease to exist ; it is only a shelter to which married couples like celibates are entitled ; and children when they come will be taken over and educated by the officials of the State. Such a system leaves approved marriage differing from illicit union only by the one fact that it is open and the other secret. There is no other difference what-



ever, in significance, intention or consequence. It is obvious also that the perpetual barrack-room life without a home or property or even the joy in growing children and the hope of an old age sustained by mutual cherishing and by family love and reverence, would be dreary and depressing to the last extreme. The notion is, however, so opposed to human and indeed to all animal nature, that it can never be experimented with to its full extent for more than a very few years. In a short time, normal mankind will always revert to the family and the home.

Fascism seems to direct reaction against Liberalism and the delusions of the nineteenth century on sounder lines. While it also bases political change on the supremacy of the State and the considered interests of the whole community, it does not neglect traditional values and indeed emphasises the worth of institutions which harmonise with human nature and natural necessity. Fascism, in word at least, exalts the family and maintains the stability of the home and separate household. It has laid great stress on the development of personality and—in everything except politics—has opposed the standardisation of mind or character. It may therefore be hoped that the changes which must inevitably take place in the next generation will be inspired and shaped rather by such ideals than by further mechanical developments of the Bolshevik or degenerate capitalist type.

The truth is, no regulation of sexual union can ever be successful which ignores the essential facts of human nature. But a reasoned view of all these conditions by which the relations of men and women in and out of marriage are now and will for some time be affected may, it would seem, justify a certain temperate and

balanced optimism. It seems unlikely that things will ever be as black again as they have lately been, or indeed have been for four centuries. Too much cannot, of course, be expected. There will be no Utopia reached ; no speedy attainment of general or substantial felicity. But it is not impossible to hope that some at least of the immediate barriers to happy married life may be removed in a measurable period of years. Such feelings of hopefulness would be held with firmer assurance, if unfortunately there were not other facts and observations which often force thinking men to a gloomier disposition. The records of mankind are not particularly cheerful reading ; and it is easy to be tempted into pessimism when one overhears the futile babble of professional politicians and popular publicists, who hail every coming decade as the millennium, wage wars " to end war," and prognosticate complete " power over nature " in the next generation. These are the vulgar minds who apparently expect to teach the universe its business by radio in a few more years and will undertake to put even death into its place in another century. A spectacle of this kind is bound to create a revulsion : and one is apt in disgust to turn to the other side and cry aloud that man remains an unimprovable animal.

For in a sense that of course is true ; it contains more truth than all this gush of oil and gas ; man is an animal that cannot be improved into anything else ; he will always keep his dose of original sin ; all the mechanical inventions in the world will not change his nature. Whirling through the emptiness of space between the stars in an infinite universe on a globular speck of dirt that turns and turns round another slightly larger ball of fiery gases, he plays and makes belief for his infinitesimal moment of self-consciousness : but

the whole of all the play through all the ages can hardly be of any particular importance to any one. Man in the meantime still is, and as long as one can guess will be, much the same noisy, greedy, chattering, conceited, dirty, destructive, rather disgusting and yet rather lovable, coaxing, mischievous, active, restless little ape as he has been for the last few hundred thousand years. He has his illusions and one of them is happiness, bless him ! or the perfect performance of his functions : and there is no reason why he should not try to manage his mating at any rate a little more happily if he can.

But when one comes to view the whole period of human life upon the globe it does seem to be the case that moderate optimism is justifiable. It is, of course, exaggerated to suppose that mankind has done any particular improving in that brief fraction of human existence—that still smaller moment of the globe's duration—which is popularly known as the historic period. As far as one can judge, mankind stands to-day on the total sum not particularly worse or better off than in the days of Sumer, or at any rate of Gnosso. But there have been oscillations in those few thousand years, ups and downs on the surface of human life. The Middle Ages for instance were rather a bad drop and the devastations of Chengiz Khan and Timur Lang were another. Rome under the Antonines probably reached the record high-water mark, and civilisation may be presumed never to have risen quite so high again. Thus, though the historic period on the whole has been stationary, yet even within it there has been worse and better : and it is a human duty and a right to strive for what is good. We have minds to understand what are the means that can be taken, and should have will enough to overcome the weakness and the evil forces

that oppose. There is every reason why an effort should be made to better the conditions that govern men and women in their mating. For it is clear, at any rate, that there are immediate small reforms within our capacity which must inevitably produce some immediate relief.

There are deeper grounds for optimism as well. However one judges the historic period, it is surely prejudiced and indefensible to contend that there has not been some improvement from the days of the Pilt-down or the Neanderthal man, for instance, to the time of factory legislation. Indeed, as mankind began by evolving from other forms of life, which in spite of the pessimists really are at a lower stage of development, *a priori* reasoning would seem to support the thesis of slow and gradual human progress. Moreover, any one who has come into contact with the few remaining savages of the world will testify that their example goes to justify the same conclusion of cautious and well-curbed optimism. The true savage belongs in essence to the prehistoric period: he has been left high and dry at an earlier landing stage, while the main convoy of mankind streamed onwards to an uncharted estuary. Savages have many attractive traits and are often agreeable companions. But, judged candidly, they must be admitted to get less out of life than the average middle-class man or woman in London or Paris. The prehistoric survival in the Central Indian hills or the forests of the Amazon, however amiable or useful he may be, is actually fever-plagued, taboo-ridden, timorous and short lived. Wretched, nerve-wracked and discontented as the modern European usually is, he is all the same better off, more comfortable and longer-lived than the "noble savage." One must not be misled by the aspect of the few millions in industrial

cities who represent the wastage of national life. The low, dirty, drunken, syphilitic offscourings of the gutter are the unimprovable residue, the used and discarded material of civilised life. But above them almost certainly continues in mankind a slow, a very slow, an almost imperceptible and yet a persistent progress. There is hope for the affairs of men ; the sum of power and smooth performance is slowly added to ; and, if the generations of posterity are not faint-hearted at their task and no mortal accident befall, Adam may yet be justified in his seed and men become more happily adapted to their surroundings.

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